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[REDACTED]

From: [REDACTED]
Sent: 13 October 2020 11:36
To: James Hamilton [REDACTED]
Subject: Personal- further submission

Dear James,

Please see attached one written submission, which is password protected as before
- I'm in the process of sorting out how to share the other.

I've also attached a short note setting out a description of the secretariat function (for the response to Mr Salmond), and also a short note to the Committee on timing.

I've also attached a first go at the paper on video conferencing arrangements- as you can see, there are some questions still to resolve so we could discuss later.

Best wishes,

[REDACTED]

Covering email:

[REDACTED]

Please find statement attached. I have italicised areas connected to my letter of yesterday, though there are connections with other sections, which will I expect be evident to Mr Hamilton.

As before, if it would be helpful to provide more information on that aspect, I am happy to speak directly to Mr Hamilton.

Best wishes

Liz

Statement

Mr Hamilton,

Please find below, brief answers to your specific questions and an accompanying general statement. I have addressed questions 2.5, 3 and 4 in my general statement.

My statement also expands on the points below, whilst also focussing on matters concerning the ministerial code.

[REDACTED]

I hope the following statement addresses all the questions you have asked, but would be happy to provide any clarification or further information you require.

General Statement

As a Special Adviser I am able to engage on ministers behalf in what would for permanent civil servants be political discussions. In particular this allows party liaison and attendance at party meetings. As Chief of Staff I advise the First Minister

both on government policy and on political matters. [REDACTED]
[REDACTED]

Before detailing the actions I took, my role and the consideration given to aspects of the ministerial code, I can confirm that I had no discussion and provided no advice, written or oral, to the Permanent Secretary on the meetings or contacts considered within your remit. I discussed some points with the First Minister, and it could be said those discussions included the provision of oral advice, but provided no written advice.

In addition I can confirm that I took no action within government in relation to these matters, *with the exception of making SG counsel aware of them during the period of the judicial review*, and did not seek to bring any influence to bear on the Scottish Government investigation into complaints of sexual harassment in relation to Mr Salmond, rather it was a determination to ensure I did not even inadvertently influence the investigation or compromise its integrity that has led to questions being raised under 4.22 and 4.23 of the ministerial code.

I can also confirm that prior to the conclusion of the investigation into Mr Salmond I was not informed of the complaints or the investigation by Scottish Government officials and had no contact with either of the complainants. At the conclusion of the investigation I was made aware of the police referral, and the intention to issue a media statement, prior to Mr Salmond intimating legal proceedings against the Government and from memory threatening legal proceedings against the First Minister.

In relation to the meetings and contacts that are the subject of the self-referral, *I was present* [REDACTED] April 2nd 2018, I was in the room with the First Minister for the duration of the phonecall on April 23rd and heard her contribution in full, and parts of Mr Salmond's contribution. I briefly interrupted the conversation on the 7th June, in order to advise the First Minister that her next engagement was waiting, and though I was not present, the First Minister made me aware of the content of her discussions on the 14th July and 18th July with Mr Salmond. I am not aware of any other contacts between the First Minister and Mr Salmond (beyond those published alongside her evidence to the Scottish Parliament Committee) or the First Minister and Mr Aberdeen.

In relation to the meeting of the 2nd April, it was attended by myself and the First Minister at her personal address. Mr Salmond attended, with Mr Aberdeen and an individual who was acting as a legal adviser to Mr Salmond.. The legal adviser had not been expected to attend, and it was only as Mr Aberdeen and Mr Salmond were due to arrive that Mr Aberdeen informed me that they would be joining them.

The individual was well known to both myself and the First Minister through longstanding political and personal connections, and I was aware he was regularly called on to provide informal advice to Mr Salmond, particularly when he faced legal or political difficulties.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

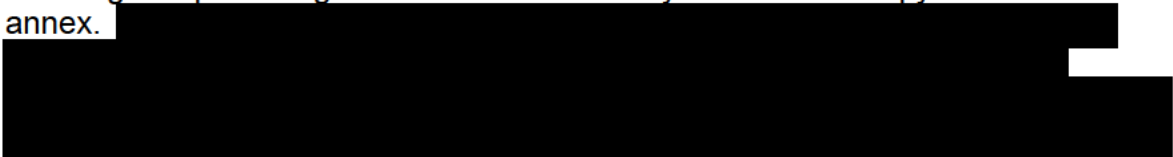
[REDACTED]

Given this was a political and personal discussion it was organised so as not to require the use of government resources, which led to it taking place at the First Minister's personal home.

As Mr Aberdein indicated he would be accompanying Mr Salmond, and as it was clear Mr Salmond had an issue to discuss that would have political consequences, I considered it appropriate that I attend. I also had some concerns as to what Mr Salmond might want from the meeting. I had only ever known Mr Salmond to be someone who expected others to solve problems for him, and if he was in difficulty I suspected he might make requests of the First Minister and wanted to ensure she had advice.

The discussion on 2nd April took place in two parts. On arrival Mr Salmond asked to speak privately to the First Minister. During this time, Mr Aberdein and Mr Salmond's legal adviser showed me a copy of a letter from the Permanent Secretary and annex

detailing complaints against Mr Salmond. They retained the copy of the letter and annex.



I made no record of this meeting. Following its conclusion, I remained briefly with the FM and we discussed whether we had an obligation to report it to the Permanent Secretary or record it under the ministerial code. Whilst it did not seem to me that the content was subject to the code, as the conversation had largely focussed on party matters and personal wellbeing, and Mr Salmond had not told the First Minister anything that the government did not know, but had rather shared with the First Minister information the government had given him, the more relevant question seemed to be whether we should inform the Permanent Secretary.

Having had some limited involvement with the development of the procedure I understood that it specifically did not provide for a First Minister to be informed of complaints against a former minister because there was no legitimate reason to share that information, but also because it ensured that no investigation or outcome could be considered by complainants to be influenced by political interests. I understood this position had been taken to build confidence amongst employees in the independence of the system. Whilst I had no doubt the Permanent Secretary would be independent in her duties, it seemed to me that there was more risk to the integrity and confidentiality of the investigation whether real or perceived from informing the Permanent Secretary of our awareness, than of not doing so.

Equally whilst I didn't consider it to fall under 4.22 or 4.23 of the code, reflecting on it now, I do not know how it would have been possible to report under the current system, without jeopardising the confidentiality of the investigation. Not only would a subject matter have been required, but engagement between Mr Salmond and the First Minister would at that time have attracted public scrutiny, which in generating questions as to the purpose of the meeting, would again have either put the

confidentiality of the investigation at risk, or put the First Minister in a position of having to give a less than frank response if asked what the meeting was about, in the interests of protecting that confidentiality

My judgement, in relation to informing the Permanent Secretary, changed when Mr Salmond continued to contact the First Minister and made explicit asks and implicit threats as well as informing her of prospective legal action.

On the evening of 23rd April the First Minister took a call from Mr Salmond in her private study in Bute House in the evening of the 23rd, shortly before attending a dinner engagement. I was in the study throughout and heard her contributions as well as some of his. Mr Salmond was asking the First Minister to tell the Permanent Secretary that she knew of the investigation in order to encourage the Permanent Secretary to agree to his request for mediation. The First Minister was firm that she would not do so. This conversation supported the earlier decision not to tell the Permanent Secretary.

On or around the 4th or 5th of June, the First Minister showed me a message she had received from Mr Salmond which appeared to indicate that he intended to take legal action against the government. Having worked around Mr Salmond over a number of years, I felt the message had a threatening tone which I recognised and was intended in my view to pressure the First Minister into taking action to in some way suppress or block the inquiry and prevent it concluding. The message also misrepresented the April 2nd meeting.

The First Minister indicated that she thought that having been informed of potential legal action she had a duty to share that with the government. I also felt that given the tone of the communication and the misrepresentation within it, that anything other than informing the Permanent Secretary, could at a later date have led to an undermining of the confidence in the investigation. We again discussed recording the meetings with private office for reporting under the Ministerial code, but given the same confidentiality risk remained and that the First Minister had decided to inform the Permanent Secretary, I felt that all necessary and practical action had been taken. The letter, as far as I am aware, was held by the Permanent Secretary's office.

I did not attend the meeting on 7th June in Aberdeen, which I understood was to inform Mr Salmond that the Permanent Secretary had been informed of the contact, and to re-iterate that the First Minister would not make any requests of her in relation to the investigation. I arrived at the hotel once the conversation was underway, but interrupted the meeting which I do not believe was long as the First Minister had informed me that he was running late, to remind the First Minister of her next engagement. I was in Aberdeen to attend party conference as permitted of Special Advisers.

The First Minister reported to me that he had sought to raise the matter of a Judicial Review and push for her to intervene and that she had, as she had indicated she would, told him that she had informed the Permanent Secretary of his contact and would not act on his behalf in any way.

Shortly after conference, I asked the First Minister if she had informed the Permanent Secretary of the conversation and she indicated that she had.

I was not present at the meeting on the 14th July or call on the 18th July

I had approached Mr Aberdeen the previous week to ask if he knew if the investigation was coming to an end. My motivation was that I knew the First Minister was considering going on holiday and if it was going to conclude and Mr Salmond take any action, I felt she would not have wanted to be out of the country given the potential for party political ramifications. He indicated that he didn't know and that Mr Salmond was seeking arbitration. [REDACTED]

Following the meeting on the 14th July, the First Minister told me that she was concerned that while she had had no involvement, Mr Salmond had formed an inaccurate impression that she was in some way blocking his request for arbitration, and could not accept that the First Minister was not acting as he wanted her to. My understanding is that the First Minister corrected that view and again informed the Permanent Secretary. My understanding of the call on the 18th was to try to end any discussion of this issue on a more amicable basis.

In relation to the reporting and recording of information, I have set out above the consideration, advice and decisions made regarding reporting under the ministerial code and reporting matters to the Permanent Secretary. I do not believe that there were any other appropriate options available to the First Minister or myself, if we were to both protect the confidentiality of the investigation and avoid compromising or even unwittingly appearing to compromise its integrity.

On becoming aware that Mr Salmond had issued a statement confirming the fact of the investigation to the media in August 2018, there was no hesitation in addressing the fact that there had been contact with Mr Salmond.

This matter had already been recorded with the Permanent Secretary at the first point at which, in my view, on the balance of risk to the investigation process, it became appropriate to do so.

In responding to Mr Salmond's confirmation of the investigation, the First Minister volunteered in a media interview in August 2018 that she had been made aware of the complaints by him earlier in the year. She was under no pressure to do so. I supported her decision to do that, and when asked by the First Minister shortly before the interview, when the meeting was, I recalled it as being Easter Monday, the 2nd April.

I subsequently briefed, with the First Minister's endorsement, Scottish Government counsel in October 2018 on the facts of the First Minister's engagement with Mr Salmond [REDACTED]

The First Minister also pro-actively set out, with my support, the contact she had had with Mr Salmond to Parliament in January 2019 following the conclusion of the Judicial Review, a decision which led to this referral. Again, she was under no pressure to do that, but we both considered it right that whilst the meetings were personal and political in nature, there should be transparency around them, despite for the reasons I have set out above, not considering that recording was required and not having, at the time, a confidential means of doing so without compromising the integrity of the process.

I hope this statement is of assistance to you, and stand ready to address any further queries you may have.

Liz Lloyd

As you will know, Mr Hynd's role includes responsibility for matters relating to the Ministerial Code, including for any investigations into possible breaches of the code. On that basis, Mr Hynd was involved in establishing the enquiry I am currently undertaking. The Permanent Secretary set out in her evidence to the Committee on 18th August 2020 that she did not consider this a conflict of interest.

██████████ has been appointed as Head of Secretariat Support in respect of the current referral which I have been commissioned to undertake, and will lead on providing support to me as I require. SCS support for this work is being provided by another member of SCS staff within Constitution and Cabinet Directorate, and James Hynd does not have a role in relation to the day to day conduct of the inquiry.

Further to the update I provided to the Committee in August, I can confirm that I have sought written statements from a number of individuals who were involved in matters covered by my remit. I am currently undertaking analysis of these statements, and considering what additional information I may wish to seek. As this process is ongoing I am not able to provide any specific timescales within which I expect to finish my work.

Independent Advisor- Ministerial Code- meeting protocol

As part of James Hamilton's work on the ministerial code inquiry, it may be necessary to undertake interviews with various parties who have information relating to the matters under investigation.

Method

In person interviews would be very challenging at the moment due to coronavirus travel and meeting restrictions. The Scottish Government's route map also advises that where work can be done remotely, it should be.

For these reasons, the interviews will be conducted via videoconference.

Videoconference is preferred rather than teleconferencing, as this will allow greater recognition of the reactions of the interviewees.

The video conferencing software will need to:

- Allow 3 or 4 participants.
- Function on Scots, non Scots and Apple devices.
- Allow audio of the meeting to be recorded
- Have no known security issues
- (if possible) Allows participants to download the software without incurring a cost

[REDACTED]

[REDACTED]

Attendees

The ACAS best practice guidance on grievance and disciplinary meetings explains the following:

In some circumstances, workers have a statutory right to be accompanied where they are required or invited by their employer to attend certain disciplinary meetings. The chosen companion may be a fellow worker, a trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker. Workers must make a reasonable request to their employer to be accompanied.

Employers are free, but are not obliged, to allow workers to be accompanied by a companion who does not fall within the above categories. Some workers may have a contractual right to be accompanied by persons other than those listed above (for instance a professional support body, partner, spouse or legal representative).

Although these meetings are conducted for a different purpose, the principles set out in the guidance provide some guidance for discussions with those participating in the code referral.

Attendees will be allowed to bring a companion to the meetings, e.g. from a trade union if they are a member.

A member of the secretariat will attend the meetings, to ensure the meeting progresses smoothly, and to ensure the recording of the meeting.

Invitation

Participants will be invited to take part in a video interview, and the proposed practical arrangements for the interview described as set out above.

Joining instructions

These will be sent out 1 week before each meeting.

These will include; the start and end time of the meeting; participant list; instructions on how to participate in the meeting, including links and passwords; arrangements in case the interview fails/breaks down.

Recording of the meeting

An audio recording of the meeting will be taken. The secretariat will also take notes.

A typed record of the meeting will be produced, and provided to all participants within 10 working days of the meeting.

Troubleshooting

RE: Personal- further submission

From: [REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]>
Date: Tue, 13 Oct 2020 11:22:01 +0000
Attachments: Short note on secretariat.docx (14.36 kB)

Hi James,

Further to my earlier email, please see slightly updated text on James Hynd's role.

Best wishes,
[REDACTED]

From: [REDACTED]
Sent: 13 October 2020 11:36
To: 'James Hamilton'
Subject: Personal- further submission

Dear James,

Please see attached one written submission, which is password protected as before - I'm in the process of sorting out how to share the other.

I've also attached a short note setting out a description of the secretariat function (for the response to Mr Salmond), and also a short note to the Committee on timing.

I've also attached a first go at the paper on video conferencing arrangements- as you can see, there are some questions still to resolve so we could discuss later.

Best wishes,
[REDACTED]

As you will know, James Hynd's role as head of Cabinet Secretariat includes supporting Ministers in matters relating to the Ministerial Code. On that basis, Mr Hynd supported the Deputy First Minister and me in establishing the referral I have been asked to undertake.

Mr Hynd has stepped away from the process and [REDACTED] [REDACTED] has been appointed as Head of Secretariat Support to support my work as I require. I can confirm therefore that James Hynd will not play any role in relation to the day to day conduct of the inquiry or in the finalisation of my report and any recommendations that I may make.

Further to the update I provided to the Committee in August, I can confirm that I have sought written statements from a number of individuals who were involved in matters covered by my remit. I am currently undertaking analysis of these statements, and considering what additional information I may wish to seek. As this process is ongoing I am not able to provide any specific timescales within which I expect to finish my work.

From: [REDACTED]
Sent: 13 November 2020 12:09
To: Lloyd E (Elizabeth) <Elizabeth.Lloyd@gov.scot>
Subject: RE: Confidential - attn: James Hamilton

Hi Liz,

I have shared the clarification and additional information with Mr Hamilton.

Best wishes,

[REDACTED]

From: Lloyd E (Elizabeth)
Sent: 12 November 2020 20:48
To: [REDACTED]
Subject: Confidential - attn: James Hamilton

[REDACTED]

I'd be grateful if you could share the following information with Mr Hamilton.

[REDACTED]

[REDACTED]

[REDACTED]

I hope this is helpful.

Best wishes

Liz

Elizabeth Lloyd
Chief of Staff to the First Minister

St Andrew's House
Regent Road
Edinburgh EH1 3DG

Tel: [REDACTED]

Mobile: [REDACTED]

Elizabeth.Lloyd@gov.scot

Please note Scottish Ministers, Special advisers and the Permanent Secretary to the Scottish Government are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot for information.

From: [REDACTED]
Sent: 13 November 2020 12:09
To: James Hamilton [REDACTED]
Subject: FW: Confidential - attn: James Hamilton

Dear James,

Liz Lloyd has provided a clarification of her previous statement, [REDACTED]
[REDACTED]

Best wishes,

[REDACTED]

From: Lloyd E (Elizabeth)
Sent: 12 November 2020 20:48
To: [REDACTED]
Subject: Confidential - attn: James Hamilton

[REDACTED]

I'd be grateful if you could share the following information with Mr Hamilton.

Firstly an entirely minor point – in my statement I have made reference to Mr Salmond's timekeeping. A drafting error remains in the statement and the sentence should read as below

[REDACTED]

[REDACTED]

I hope this is helpful.

Best wishes

Liz

Elizabeth Lloyd
Chief of Staff to the First Minister

St Andrew's House
Regent Road
Edinburgh EH1 3DG

Tel: [REDACTED]

Mobile: [REDACTED]

Elizabeth.Lloyd@gov.scot

Please note Scottish Ministers, Special advisers and the Permanent Secretary to the Scottish Government are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot for information.

Salmond- follow up letter

From: [REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]>
Date: Fri, 13 Nov 2020 11:09:30 +0000
Attachments: Mr Salmond- follow up letter.docx (14.06 kB)

Hi James,

Please see attached short follow up letter to Mr Salmond.

Happy to discuss,

Best wishes,

[REDACTED]

Dear Mr Salmond,

As set out in my correspondence on 29th October, I am in the process of considering written submissions and considering what additional information I may need to gather.

Any written submission you would intend to provide would be considered as part of that process. Would it be possible for you to indicate when you would be able to provide a written submission.

Yours sincerely,

RE: Ministerial code investigation

From: [REDACTED]@gov.scot>
To: [REDACTED]@bbc.co.uk>
Date: Thu, 14 Jan 2021 11:00:02 +0000

Dear [REDACTED]

Thank you for your email. Mr Hamilton does not propose to make any public comment pending the issuing of his report.

It may, however, be helpful for me to explain some of the background (as far as I understand it) to the reporting in the Sun. At FMQs yesterday, the First Minister referenced correspondence from Mr Hamilton to the Deputy First Minister. I understand that Scottish Government communications team then issued a copy of the letter from Mr Hamilton to the Deputy First Minister to various journalists who had been present at the post FMQ press briefing, including the Press Association.

Separately, Mr Hamilton yesterday responded to correspondence received from Alex Cole-Hamilton and other MSPs concerning the remit of the investigation; I understand that extracts of this letter have been published on social media by Alex Cole-Hamilton.

I hope this information is helpful. If you would like to discuss, please give me a call on the number below.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please contact me on Skype or on [REDACTED]

-----Original Message-----

From: [REDACTED]@bbc.co.uk>
Sent: 14 January 2021 09:46
To: [REDACTED]@gov.scot>
Subject: Ministerial code investigation

Hi [REDACTED]

I am just following up the report in today's Sun suggesting the scope of Mr Hamilton's investigation will be widened to consider the various claims made in Mr Salmond's submission. Can you clarify?

Many thanks.

[REDACTED]
Political Editor
BBC Scotland News
[REDACTED]

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

Scottish Parliament Committee- evidence and update on witnesses appearing next week

From: [REDACTED]@gov.scot>
To: James Hamilton <[REDACTED]@[REDACTED]>
Date: Thu, 14 Jan 2021 10:41:35 +0000

Hi James,

Quick round up of committee stuff from this week.

The official report for the Permanent Secretary's evidence session on Tuesday 12th can be found here:

[Official Report - Parliamentary Business : Scottish Parliament](#)

The video is here (as discussed it is pretty poor quality):

[Scottish Parliament TV | Committee on the Scottish Government Handling of Harassment Complaints : January 12, 2021](#)

Correspondence between the Committee and Mr Salmond regarding evidence and his proposed appearance at the Committee next week can be found here.

On 8 January 2021, legal firm Levy & McRae, representing Former First Minister Alex Salmond, wrote to Committee members providing additional written evidence.

[Letter from Levy & McRae to Committee members, 8 January 2021 \(45.5KB pdf\)](#)

Following this, the Convener wrote to Alex Salmond confirming an invitation to give evidence to the Committee on 19 January.

[Letter from the Convener to Alex Salmond, 12 January 2021\(72.1KB pdf\)](#)

Alex Salmond replied to the Convener's invitation to give evidence to the Committee on 19 January.

[Letter from Alex Salmond to the Convener, 13 January 2020 \(35KB pdf\)](#)

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 14 January 2021 16:09
To: 'James Hamilton' [REDACTED]
Subject: RE: First Minister's written statement

Hi James,

I've reattached a PDF. Will dig out the word doc shortly!

Best wishes,

[REDACTED]
ccj

From: James Hamilton [REDACTED]
Sent: 14 January 2021 15:27
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: First Minister's written statement

Hi [REDACTED]

For some reason I can no longer open this and I need it to work on. It must be too secure!

Can you send it again?

James

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

9 October 2020

Dear Mr Hamilton

SCOTTISH MINISTERIAL CODE: SELF REFERRAL

Thank you for your letter of 8 September. Please find enclosed the following:

Annex A: I have provided, as requested, a general statement about my actions and involvement in the matters covered by your remit. Please note that I have also provided this statement to the Scottish Parliament Committee on the Scottish Government Handling of Harassment Complaints (hereinafter referred to as "the Committee").

Annex B: I have enclosed a transcript of WhatsApp messages between myself and Alex Salmond. This information has also been provided to the Committee and I was advised by the clerks that Mr Salmond has asserted legal privilege over the message from him to me dated 16 July 2018 and asked for it to be redacted.

Annex C: A copy of my covering letter to the Committee dated 4 August 2020. The letter is enclosed for completeness. It covers matters that you may consider go beyond your remit but also some information that appears to me to fall within it and which you may find helpful.

As you may be aware, my submission to the Committee has now been published - however, I thought it would be helpful to attach it here for ease of reference.

I will now turn to the specific questions in your letter. Most of them are addressed in the Annexes attached - however, where it seems you are requesting additional information or that I can usefully expand on any points, I will do so below.

Please note that in the Annexes detailed above and in the answers below, I have taken care not to provide any information that would seem to me to risk breaching the order of the High Court in HMA v AEA Salmond. If, as a result, it appears to you that there are questions I am not answering directly, I would be happy to discuss this further with you.

Question 1

All of my contacts with Mr Salmond between 16 January and 18 July 2018 are detailed in Annex A. You will note from that account that after my final conversation with him on 18 July, he sent me two further messages - on 18 and 20 July. These are included in Annex B. I did not respond to these messages.

I can confirm that I have had no contact with Mr Salmond - direct or indirect - since.

Question 2

I met with Geoff Aberdein, former Chief of Staff to Mr Salmond, in my office in Parliament on 29 March 2018. The circumstances and nature of this meeting are set out in Annex A.

He was mainly, as I recall now, seeking to persuade me to meet with Mr Salmond. I think the assumption in my mind at the time of this discussion was that any issues of alleged sexual conduct against Mr Salmond would be related to the matter raised by Sky News in the query a few months earlier. [REDACTED]

[REDACTED] this would have meant nothing to me as I had not been aware of any such instance. The reference however makes sense in light of what Mr Salmond told me on 2 April.

As I set out in Annex A, I had forgotten about this encounter until I was reminded of it in early 2019. Since the publication of my evidence to the Committee, it has been asked of me how it is possible that I could have forgotten such an encounter.

It is obviously not possible for anyone to be certain of the reasons for forgetting an event. But the reasons I think this meeting was not engraved in my mind (beyond the fact that it was an unscheduled meeting in the middle of a busy day) are alluded to in my Committee submission, and it may be helpful for me to expand.

Firstly, by the time I met with Mr Aberdein, I already had what I describe as a 'lingering concern' that allegations may emerge about Mr Salmond. This was as a result of the Sky media query in November 2017. In other words, the meeting was not the first time possible allegations about Mr Salmond had been raised with me - had it been, my memory may have been more vivid. But the second, and perhaps more relevant factor is that my meeting with Mr Salmond himself a few days later on 2 April was so significant. It was then that he told me the details of the actual complaints against him and his response to them. I think it is because this was such a shock to me that the earlier meeting was overwritten in my mind.

Question 3

There were no meetings - other than those I have declared - between anyone representing me and Mr Salmond.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Question 4

A summary of the purpose of, and participation in, each of the contacts is provided in Annex A. The messages at Annex B also include relevant detail. I expand on the purpose of and reasons for each of the contacts in my response to Question 5.

However, I include under this question detail of the following: who initiated each meeting; how long (as far as I can recall) each contact lasted; and who was present.

I did not make a record of any of the contacts. However, I gave a verbal account of each of them to my Chief of Staff.

2 April

This meeting was initiated by/on behalf of Mr Salmond. The others present in my home throughout - though only involved in part of the discussion - were my Chief of Staff, Geoff Aberdein and Duncan Hamilton (who I believe was acting in a legal capacity for Mr Salmond). I had not been aware in advance that Mr Hamilton would be in attendance. My recollection is that Mr Salmond, Mr Aberdein and Mr Hamilton were present in my home for an hour or two. My Chief of Staff was there longer as we had other matters to discuss.

At the meeting, Mr Salmond shared the details of the complaints with me and gave me his response to them - part of this was that he had previously apologised for an aspect of one of them. He also told me that he intended to seek a process of mediation with the complainers. As it was clear to me then that these were complaints under the Scottish Government's Procedure, I knew I had no role and would not be made aware by the Permanent Secretary until any investigation concluded. I was clear to Mr Salmond that I would not intervene.

23 April

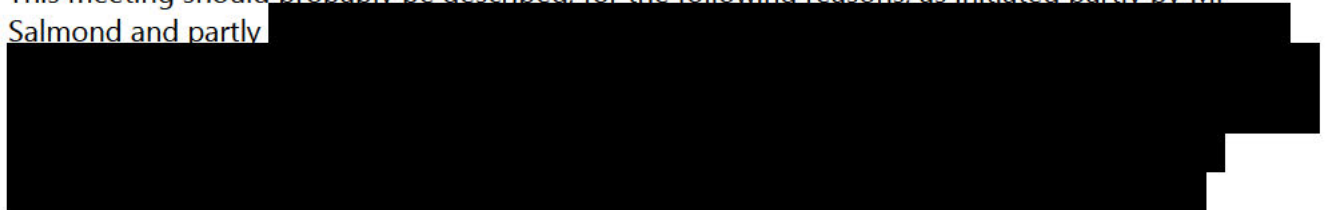
The call was initiated by Mr Salmond. My Chief of Staff was in the room with me during this call but not on the line. I think it lasted around 10/15 minutes in total.

7 June

Mr Salmond requested this meeting. I initially declined but, for reasons set out below, later agreed to it. Mr Salmond and I were the only attendees. My Chief of Staff was aware of the meeting but not present - though she did interrupt to bring it to an end as I had other matters to attend to.

14 July

This meeting should probably be described, for the following reasons, as initiated partly by Mr Salmond and partly



Mr Salmond and I were the only attendees at the meeting on 14 July. I think the meeting lasted around an hour.

18 July

This call was initiated by me. No one else was on the line or present during it. It lasted around 10/15 minutes.

Question 5

After the meeting of 2 April, it was not my intention to meet with or speak to Mr Salmond about the matter again.

My reason for agreeing to the call on 23 April is not dissimilar to the reasons I agreed to the 2 April meeting.

When he contacted me on 22 April, I again thought it possible that he was intending to respond in a way that would make the matter public. To explain, it would have been very much in character for him to have made a bold public declaration about the complaints made against him in order to, as he would see it, 'take control of the story'. This could have been along the lines of 'I'm standing down from SNP while I fight to clear my name' or even a partial mea culpa 'I've made mistakes, but I'm not guilty of what I am accused of'. Back then, this is what I assumed he would eventually do.

As Party Leader, I was keen not to be blindsided by such a development, and that is why I agreed to the call.

However, on the call he asked me to advise the Permanent Secretary that I knew of the investigation and persuade her to accede to his request for mediation. I told him emphatically that I would not do so.

When he contacted me on 31 May seeking a meeting, I initially resisted. I still thought it possible that he might 'go public', but the content of our conversation on 23 April and the tenor of his messages to me on 31 May/1 June made me think this was unlikely at that stage.

Therefore, my intention was to decline this meeting request.

However, the tone and content of his message of 3 June changed my view of the matter. The tone of it seemed almost intimidatory and the content made clear he was considering legal action. As a result, I decided to inform the Permanent Secretary.

This was not a decision I took lightly - as I set out in my general statement and below, my decision not to inform the Permanent Secretary of my knowledge, also not taken lightly, had been about protecting the integrity and confidentiality of the process.

I decided to make it known to him that I had informed the Permanent Secretary, and make clear again that I would not intervene as he wanted me to. I indicated to the Permanent Secretary in my letter to her that I intended to have such a conversation with him.

I felt it important to do this, firstly, because Mr Salmond can be persistent and will often interpret conversations or messages in a way that best suit his interests. I wanted to leave no room for misinterpretation.

Also, I believed it highly likely that our paths would cross towards the end of that week at the SNP Conference (as it turned out, I don't think he did attend), and I considered that speaking to him in a planned way was better than him trying to 'corner' me.

As for the content of the meeting on 7 June, I advised him of the action I had taken and made clear again that I was not prepared to intervene in the process. He wanted to give me a document to take away which I believe was a legal opinion he had obtained. I declined to do so. He stated his intention to take legal action if necessary. I expressed an opinion that given the seriousness of the complaints he should consider addressing the substance of them.

By the time of the meeting on 14 July, I was again concerned that the matter might become public. As set out above, I always thought it possible, even likely, that this was the course Mr Salmond would ultimately take. And had he taken legal action - which I knew he was considering - this could also have put matters into the public domain.

At that meeting, he told me he was asking the Scottish Government to agree a process of arbitration. For reason that I didn't understand then - and don't understand now - he believed I was blocking this. I told him that wasn't so as I had no involvement in the process.

I suggested again that he should address the substance of the complaints rather than simply focusing on procedure.

Although he indicated he would reflect on this, he was focused on his request for arbitration and seeming unwilling to accept that I would not put pressure on the Permanent Secretary to accede to it.

By this time, it was clear that my relationship with Mr Salmond was breaking down. He was clearly upset and angry that I was not assisting him to achieve the outcome he wanted.

I was also upset with him. The nature of the complaints against him and the account he had given me of one of them had badly shaken my faith in him.

However, in spite of that, I did not want our relationship to break down completely. He had been my friend and colleague for 30 years.

It was this that prompted my call to him on 18 July. I wanted to draw a line under our contact about the matter. I was also about to take a short summer break and I didn't want it interrupted by contact from him. However, I think I was also hoping to make him understand and accept why I couldn't and wouldn't intervene.

Question 6

I advised the Permanent Secretary of the meeting on 2 April and the call on 23 April, in my letter to her of 6 June 2018 (I do not personally hold a copy of this letter - it is held by the Scottish Government and I understand that it has been provided to you by the Permanent Secretary).

My letter indicated that I intended to speak to Mr Salmond again, which I did on 7 June. I later told the Permanent Secretary that I had done so, though we did not have any detailed discussion about it.

I advised her on 16 July of my meeting with Mr Salmond on 14 July and made her aware of his belief that I was blocking arbitration. I made clear to her again that I had no view on the matter and the decision was hers alone. I also told her - I think on my return from annual leave - that I had spoken to him on the phone on 18 July, but I did not discuss the details.

The Permanent Secretary wrote to me on 17 August 2018 informing me that she intended to seek [REDACTED]

She then wrote to me on 22 August 2018 - in line with the Procedure - informing me that she had concluded the investigation, upheld certain complaints and referred the matter to the police.

I assume the letters of 17 and 22 August will be provided to you by the Permanent Secretary if required.

At every stage of my contacts with Mr Salmond I considered the obligations of the Ministerial Code - and my obligations as First Minister more generally. I gave particular consideration to the Code after the meeting on 2 April and discussed this with my Chief of Staff.

It seemed to me then - and I believe this to be the case now - that the Code does not envisage or provide for the particular circumstances of the situation I was faced with. In truth, it felt to me that I was in a Catch 22 situation - had I relied on the relevant parts of the Code, I would have compromised the confidentiality and independence of the process. And if I decided - as I did because I consider it to be the case - that the Code does not provide for the circumstances of this situation, I could find myself accused of breach, as indeed has happened. The judgment I made was that the integrity, independence and confidentiality of the process was paramount.

To explain more fully, the relevant sections of the Ministerial Code, which I consider to be sections 4.22 and 4.23, seek to guard against undisclosed outside influence on decisions that Ministers are involved in and likely to have an influence on. It seemed to me that this was the opposite situation. This was a decision I was excluded from - indeed not meant to know about at all - and it seemed to me that the risk of inadvertently and unintentionally influencing it would arise if those undertaking the investigation became aware of my knowledge of it.

Further, according to my reading of these sections of the Code, my contact with Alex Salmond - once notified - would have had to be made public. There would have been media interest had a meeting between me and Alex Salmond appeared in my published diary, and it was not clear to me how I could have addressed the questions that would have been asked, without in the process compromising the confidentiality of the process.

My judgment, therefore, was that the best way to protect the process - in the interests of the complainers, the government and Mr Salmond himself, was not to make my knowledge of it known. This judgment changed when I had reason to believe that legal action against the government was being considered.

Question 7

I discussed matters with my Chief of Staff throughout - in particular in relation to the Ministerial Code. I did not ask the Permanent Secretary, any civil servant or other special adviser for advice. I would point out that this was in the context of seeking to protect the confidentiality of the process. I hope I have addressed all your questions. I am, of course, happy to expand on any point should you find it helpful and to discuss all matters further in interview with you. Your sincerely

NICOLA STURGEON MSP

ANNEX A

Alex Salmond told me on 2 April 2018 at a meeting at my home that complaints against him were being investigated under the Procedure. At that meeting, he showed me a copy of the letter he had received outlining the detail of the complaints.

As has been reported already, four days earlier - 29 March 2018 - I had spoken with Geoff Aberdein (former Chief of Staff to Alex Salmond) in my office at the Scottish Parliament. Mr Aberdein was in Parliament to see a former colleague and while there came to see me.

I had forgotten that this encounter had taken place until I was reminded of it in, I think, late January/early February 2019.

For context, I think the meeting took place not long after the weekly session of FMQs and in the midst of a busy day in which I would have been dealing with a multitude of other matters.

However, from what I recall, the discussion covered the fact that Alex Salmond wanted to see me urgently about a serious matter, and I think it did cover the suggestion that the matter might relate to allegations of a sexual nature.

[REDACTED]

The impression I had at this time was that Mr Salmond was in a state of considerable distress, and that he may be considering resigning his party membership.

However, while I suspected the nature of what he wanted to tell me - for reasons set out below - it was Alex Salmond who told me on the 2 April that he was being investigated under the Procedure - and what the detail of the complaints was. It is this meeting - due to the nature of the information shared with me at it - that has always been significant in my mind.

As stated above, I suspected the reason Alex Salmond wanted to see me on April 2 was that he was facing an allegation of sexual misconduct.

Although my contact with Mr Aberdein on 29 March 2018 may have contributed to that suspicion, it was not the only factor.

For example, in early November 2017, the SNP received an enquiry from Sky News about allegations of sexual misconduct on the part of Alex Salmond.

I spoke to Mr Salmond about this allegation at the time. He denied it and, as it happened, Sky did not run a story about it at that time. Since the identity of the individuals was not made known to us and they did not approach the SNP directly, there was no further action that it would have been possible to take.

However, even though he assured me to the contrary, all of the circumstances surrounding this episode left me with a lingering concern that allegations about Mr Salmond could materialise at some stage.

It is reasonable to ask why, if I suspected the nature of what he wanted to speak to me about on 2 April, I nevertheless agreed to the meeting.

The answer is both political and personal.

I thought Mr Salmond may be about to resign from the SNP and that, as a result of this or other aspects of how he intended to handle the matter he was dealing with, the party could have been facing a public/media issue that we would require to respond to.

As Party Leader, I considered it important that I knew if this was in fact the case in order that I could prepare the party to deal with what would have been a significant issue.

There is also the personal aspect. Mr Salmond has been closer to me than probably any other person outside my family for the past 30 years, and I was being told he was very upset and wanted to see me personally.

To return to the meeting on 2 April 2018, although others were present, Mr Salmond initially asked to see me privately.

He advised me that he was being investigated under the Procedure and showed me a copy of the letter he had received.

Notwithstanding the suspicions I had harboured going into this meeting, I was shocked and upset by the reality of what I read.

He gave me his reaction to the complaints - in the main he denied them, though in relation to one matter he said that he had previously apologised and considered it out of order for it to be raised again - and said that it was his intention to seek a process of mediation between himself and the complainers.

It was also clear - contrary to what I had anticipated - that he did not intend to resign his party membership or do anything to make the matter public at that stage.

I made clear to him that I had no role in the process and would not seek to intervene in it.

I took no action as a result of this meeting.

Mr Salmond sent me a message on 22 April 2018 asking to speak to me by phone.

As previously advised to Parliament, I spoke to him by phone on 23 April (the substantive call took place early evening after a call in the morning had to be aborted due to poor signal).

He asked me if I would make the Permanent Secretary aware that I knew about the investigation and encourage her to accept his request for mediation.

I said that I was not willing to do so. A special adviser was in the room with me during this call, though not on the line.

Mr Salmond sent me a message on 31 May 2018 asking to meet. I did not agree to a meeting at that time.

Mr Salmond sent me a further message on 3 June 2018.

Both the tone and content of this message led me to conclude that legal action by Mr Salmond against the Scottish Government was a serious prospect.

I decided that I should make the Permanent Secretary aware of this, and I wrote to her on 6 June 2018.

At this juncture, it may be helpful to briefly set out for the Committee why I had not previously informed the Permanent Secretary of my contact with Alex Salmond or my knowledge of the investigation.

The relevant sections of the Ministerial Code (4.22 and 4.23) seek to guard against undisclosed outside influence on decisions that Ministers are involved in. It seemed to me that this was the opposite situation. This was a decision I was excluded from and it seemed to me that the risk of inadvertently and unintentionally influencing it would arise if those undertaking the investigation were aware of my knowledge of it.

The risk - even if theoretical and subconscious - would be that considerations of what I might think would influence the decisions taken.

Further, according to my reading of these sections of the Code, my contact with Alex Salmond - once notified - would have had to be made public. This could have compromised the confidentiality of the process.

My judgment, therefore, was that the best way to protect the process was not to make my knowledge of it known. This judgment changed when I had reason to believe that legal action against the government was being considered.

Having decided to write to the Permanent Secretary, I agreed to meet Mr Salmond and sent him a message to this effect on 5 June 2018.

The references in this message to 'what I need to do' and 'update' refer to my decision to write to the Permanent Secretary.

I intended to make him aware that I had done so and, in so doing, make clear again that I would not intervene in the process.

My letter to the Permanent Secretary advises her that I intended to do this. As advised to Parliament, this meeting took place in Aberdeen on 7 June 2018. No one else was present at this meeting.

My other reason for wanting to meet with him proactively at this stage was the SNP conference that was about to take place over the following days in Aberdeen. I assumed he would be there (though as it turned out, I don't think he did attend) and I didn't want to be 'cornered' by him during it.

Mr Salmond sent me a further message on 5 July 2018. I did not respond in any way to this message. The next contact between Mr Salmond and I was on 13 July 2018, which led to our third and final meeting being arranged for 14 July at my home.

By this time, I was again anxious - as Party Leader and from the perspective of preparing my party for any potential public issue - to know whether his handling of the matter meant it was likely to become public in the near future.

It was clear at the meeting that he was still seeking a process of arbitration around his concerns about the procedure.

He had formed a belief that it was me who was blocking arbitration. I told him that was not the case and I was not involved in the decision.

I also suggested to him that given their seriousness, he should engage on the substance of the complaints and not just focus on procedure.

Mr Salmond sent me further messages on 15 and 16 July 2018. The message of 15 July is Mr Salmond's interpretation of me saying that I was not involved in the decision.

On 16 July, I made the Permanent Secretary aware of the meeting on 14 July 2018 and the subsequent messages. I also made her aware of Mr Salmond's belief that I was blocking arbitration.

Given the risk of legal action, I did not want any suggestion that an opinion attributed to me (which I hadn't expressed) was influencing decisions I had no part in.

I reiterated to her that she must reach whatever decisions she considered appropriate and I did not seek to influence her in any way.

As advised to Parliament, I also spoke to Mr Salmond on the phone on 18 July 2018. I wanted to draw a line under our contact. I was also about to take a two day summer break and did not want him trying to contact me during it. I have not spoken to Mr Salmond since.

However, later on 18 July, he sent me a copy of a letter he had received from the Scottish Government. I did not respond to this message.

He sent me a further message on 20 July 2018. Again, I did not respond.

I have had no contact with Mr Salmond since.

ANNEX B

[22/04/2018, 20:31:29] Alex Salmond: it would be very helpful if I could call you on WhatsApp 10.30am and 12 noon tomorrow

[22/04/2018, 21:05:25] Nicola Sturgeon: I'll be in the car until 11 on way to Inverness - so 10.30 will be ok. I'll not be free again after that until 12.30/1. There will be others in car so I'll not be able to talk openly...it'll be later in day before I can be in private.

[22/04/2018, 22:03:57] Alex Salmond: In which case I will Phone just after 10.30am with update and we can perhaps speak properly later on.

[31/05/2018, 11:24:01] Alex Salmond: In Glasgow tomorrow - could we meet?

[31/05/2018, 11:39:09] Nicola Sturgeon: Tomorrow's very difficult - is it urgent?

[31/05/2018, 11:45:01] Alex Salmond: Next few days. I could do tomorrow evening or Monday from lunchtime onwards.

[31/05/2018, 11:46:29] Nicola Sturgeon: The only time I could possibly do tomorrow is around 4. Is it about what we spoke about before?

[31/05/2018, 11:56:46] Alex Salmond: Yes

[31/05/2018, 11:56:59] Alex Salmond: 4 is fine - same place?

[31/05/2018, 17:07:08] Nicola Sturgeon: Tomorrow is actually proving tricky given other stuff I've got on. I'm trying to juggle a couple of things - will confirm later/in morning if 4pm possible and if not suggest alternative.

[31/05/2018, 19:23:01] Alex Salmond: I suggest just two of us - I can leave you with some material to digest over weekend - Meeting itself need not take long but tomorrow would be best if poss.

[01/06/2018, 07:51:32] Nicola Sturgeon: Sorry but I just can't do today - I don't have time to get home given other stuff. Happy to speak on phone over weekend and see what else is possible.

[01/06/2018, 09:36:59] Alex Salmond: Phone not appropriate - there is material you need to see and assess privately. Can I come to you Sunday or very first thing Monday?

[01/06/2018, 13:37:54] Nicola Sturgeon: I'm not at home at weekend and in Aberdeen on Monday. In any event, I'd prefer a quick chat first to understand the purpose of giving me material. We've already spoken about why I think me intervening is not right thing to do. Happy to talk on what's app at some point over weekend.

[03/06/2018, 10:15:00] Alex Salmond: My recollection of our Monday 2 April meeting was rather different. You wanted to assist but then decided against an intervention to help resolve the position amicably. Now is different. I was intending to give you sight of the petition for JR drafted by senior counsel. You are a lawyer and can judge for yourself the prospects of success which I am advised are excellent. This will follow ANY adverse finding against me by the PS in a process which is unlawful. You are perfectly entitled to intervene if it is brought to your attention that there is a risk of your Government acting unlawfully in a process of which you had no knowledge. Indeed it could be argued that is your obligation under the Scotland Act is to ensure that all government actions are consistent with Convention undertakings

The JR will be rough for me since the hearing will almost certainly be made public but at least I will have the opportunity to clear my name and good prospects of doing so - but for the Government? One further thing to consider. Thus far we have been able to confine evidence offered to the general (and mostly ridiculous) matters. This has had the benefit of keeping everything well clear of current administration. When we go to Court we will have to produce evidence to demonstrate prior process (which incidentally the PS has admitted!). If you want to discuss privately then I can come to you in the North East on Monday.]

[05/06/2018, 14:02:58] Nicola Sturgeon: Hi - I have been considering your message and what I need to do in light of it. If you still want to meet, I can do tomorrow evening in Edinburgh and update you then. N

[05/06/2018, 19:24:32] Alex Salmond: Happy to meet - soonest I can get to Edinburgh is around 8.30. I take it this is totally informal, one to one.

[05/06/2018, 19:42:38] Nicola Sturgeon: Ok - happy for it to be one to one - will have to be either parliament or Bute, whatever you prefer. The alternative if its easier is Aberdeen on Thursday night - I'll be there from around 8, staying in hotel somewhere near beach ballroom I think.

[05/06/2018, 20:08:30] Alex Salmond: Yes Thursday much better, thanks. I'll be there for 8.30 to give you time to settle in.

[05/06/2018, 20:12:37] Nicola Sturgeon: Ok. It's the Hilton hotel at the beach. [05/06/2018, 20:17:58] Alex Salmond: Grand

[07/06/2018, 19:00:28] Nicola Sturgeon: You should go to the Platinum reception at the back of hotel later. There's a private room arranged there for us to meet in.

[07/06/2018, 19:07:45] Alex Salmond: OK thanks. Traffic was bad but now well on the way. Should arrive c 8.40 and will give 5 minute warning on approach.

[07/06/2018, 19:09:23] Nicola Sturgeon: I'm running late too - but should be there just before you

[07/06/2018, 19:14:01] Alex Salmond: OK shall we make it 8.50 so we are not rushing
[07/06/2018, 19:25:49] Nicola Sturgeon: I'm ok for as soon as you get there [07/06/2018, 19:36:24] Alex Salmond: Grand
[07/06/2018, 20:46:30] Alex Salmond: Now in Aberdeen 5 minutes or so

[05/07/2018, 21:18:40] Alex Salmond: Nicola. I have slept on the content of the latest letter from the PS rejecting arbitration. Two points I want to make to you privately. Firstly, the explanation given in the letter is that arbitration is rejected because the SG is confident in the legality of the process. With respect, that entirely misses the point. The SG may well believe it is lawful. My Senior Counsel believes it is unlawful. That's the whole point of the arbitration.

The legality will have to be resolved either in private (in a confidential and binding arbitration) or in public at the Court of Session. The SG, and you, have everything to gain from arbitration. If my legal advice is wrong, I will accept that and the current process proceeds. If the SG legal advice is wrong, you discover that without losing in a public court. Adopting an arbitration process also guarantees confidentiality for the complainers, regardless of what happens.

Secondly, the PS has now intimated that an FOI has been submitted. The SG response to that request is of the utmost importance. Confirmation of even the existence of a specific complaint will be sufficient to start a process which leads to the near certainty of these matters becoming public. My legal advice is that a "neither confirm or deny" response which avoids acknowledging the existence of any documents can be issued under section 18 of the FOI Act which covers S38 (1) (b) {personal information}. It is critical that this happens. There remains a way to resolve this but it requires the PS to be encouraged to accept that confidential arbitration offers the best solution and to ensure that the FOI is carefully handled. I hope you will do so but time is now very short.]

[13/07/2018, 11:01:08] Alex Salmond: Grateful for your message [REDACTED] Happy to meet privately. Understand you are away from Monday so given developments presumably this weekend best? I have material which it is important for you to see. I will happily come to you.

[13/07/2018, 11:22:38] Nicola Sturgeon: I'm supposedly on leave from Monday but not going away - I'll be at home so could do next week if that's easier (except Thursday/Friday). Weekend is a bit busy with one thing and another - late tomorrow afternoon probably only time that works. Let me know what you prefer.

[13/07/2018, 14:03:32] Alex Salmond: Great - can we make it tomorrow late afternoon then - I am just rearranging something and will confirm asap.

[13/07/2018, 15:13:10] Alex Salmond: Tomorrow confirmed for late afternoon. - give me your best time and place. Thanks.

[13/07/2018, 15:56:10] Nicola Sturgeon: It'll have to be my house - I should be home by 4 so

that's best time. Just so you know, I have to go out again around 6.

[13/07/2018, 15:58:44] Alex Salmond: 4 it is then

[13/07/2018, 15:59:27] Nicola Sturgeon: Ok

[14/07/2018, 15:45:59] Alex Salmond: Ten minutes away

[15/07/2018, 22:42:44] Alex Salmond: Many thanks for making the time yesterday. I am grateful that you will correct the impression being given that you are against arbitration or that it is somehow against your interests. I know that you need to reflect further on how to progress things beyond that and am not blind to the difficulty of legal advice being suspicious of arbitration. I am genuinely at a loss as to what the downside is for anyone, complainers, SG or me or you. The reasons given to date have been meaningless or more recently just a misrepresentation of your position. If there are good legal reasons then surely they can be set out for you/us. I will wait to hear how you are able to proceed. I am also giving much thought to your advice and thinking deeply about how arbitration on process might open up the space and opportunity to address and resolve the underlying matters, as far as is possible, to everyone's satisfaction.]

[16/07/2018, 14:57:50] Alex Salmond: Just in from Duncan to me - for your eyes only

"Senior counsel for SG has just told us he is going to take instruction direct from PS on the question of what attitude he is to take to arbitration. This is exactly the point at which the FM's position supporting at least the exploration of arbitration can be most influential. Otherwise we are hitting a wall in discussions. Immediate clarification of her position with the PS is required. As in, immediately."

[18/07/2018, 20:50:37] Alex Salmond: T: 0131-244 4026

E: perm.sec@gov.scot

Mr Callum Anderson Levy and McRae Pacific House

70 Wellington Street GLASGOW

G2 6UA

Private and Confidential 18 July 2018

Dear Mr Anderson

Thank you for your recent letters, in which you have raised your concern about the fairness of the Scottish Government Procedure. I want, first of all, to assure your client that I am approaching these important issues with the greatest of care and with an open mind. It remains the view of the Scottish Government that our Procedure is fair and legally sound. We have ensured from the outset that your client had every opportunity to provide a statement of his recollection of the events described in the "causes for concern" set out in my letter of 7 March. We granted a number of extensions to the initial deadline for such a statement to be provided. Your client was also offered the opportunity to speak to the Investigating Officer directly but he declined to do so.

Your client has chosen not to provide a substantive response to the complaints made by Ms A and Ms B (causes for concern A – I) although he has made clear his denial that any harassment took place. Your letter of 26 April included quotations "in short none of the allegations are admitted" and "I categorically deny that I have ever harassed any civil servant".

Although you continue to express concern about the overall fairness and legality of the

Procedure your letter of 26 April did include a substantive response to causes for concern J – K. That letter also identified 5 witnesses to be interviewed - limited to those causes for concern only.

Contact information for those witnesses was provided by you on 8 May. Witnesses were interviewed by the Investigating Officer and their statements were finally agreed by all parties by 28 June after a number of postponements and delays.

You have proposed arbitration in relation to the Procedure and explained why you consider it to be appropriate. The Scottish Government has explained in previous letters and in exchanges between legal representatives why we do not agree. However, for completeness and to ensure our position is understood we make the following points.

First, we consider that we have given your client a fair opportunity to address the complaints, and that the procedure which we have followed is a fair one.

- We do not consider that arbitration would be appropriate to the circumstances. This is an investigation of serious complaints made by civil servants involving a former Minister. Submitting the process to an external decision maker would not be appropriate.
- As the decision maker, I have to balance a range of interests, and to ensure a Procedure which is fair both to your client and to the complainers. Arbitration of the SG process would not involve the complainers.
- As decision maker I have a duty to bring the investigation to a conclusion as efficiently and timeously as possible. Arbitration would cause unavoidable further delay.
- However tightly a remit were drawn, it seems unlikely that it would be possible to separate the procedural points which you have raised from issues of substance or content in a way which would allow those procedural concerns to be addressed.

Your client has provided a substantive response to causes for concern J – K. However, it remains my view that his interests and those of the investigation as a whole would best be served by him providing a substantive response to each of the causes for concern – and it is a matter of regret that he has chosen not to do so.

Consequently I am offering your client, even at this late stage, a final opportunity to provide any further representations about the complaints made by Ms A and Ms B.

Given the time that has elapsed since first notifying your client of the investigation you must confirm if your client wishes to take up this opportunity no later than 11 am on 19 July. Any further representations must be received by 3 pm on Friday, 20 July if they are to form part of my consideration.

Should your client choose not to take up this final opportunity I shall proceed to consider the report on the basis of the information he has already provided and will write to you again to inform you of the outcome.

Yours sincerely

LESLIE EVANS

[18/07/2018, 20:52:21] Alex Salmond: As you see the time allowed is tomorrow morning at 11am

[20/07/2018, 22:37:18] Alex Salmond: A full rebuttal of all complaints went in by the deadline today. Let us see how it is judged.

ANNEX C

4 August 2020

Dear Convener

I refer to your letter of 7 July.

Please treat this covering reply and attached annexes as my response to the questions posed in your letter.

With regard to paragraph 5 of Annex B of your letter, noting that “the Committee and all participants must comply with the court order made by the Lord Justice Clerk, Lady Dorrian, on 10 March 2020”, I have excluded from this letter any information that, as far as I am aware, might disclose the identity of any of the complainers in HMA v AEA Salmond.

However, I do not know if my submission would pose a risk in ways I am not aware of, or if other evidence submitted would risk jigsaw identification.

Therefore, prior to publication of all or part of this submission, I would like assurance on the steps the Committee has taken to ensure that nothing in it, either on its own or taken together with anyone else’s evidence, would risk identification.

The Committee previously asked me to retain all information relevant to the Inquiry. I enclose at Annex B a transcript of WhatsApp messages between myself and Alex Salmond. This is the only information I hold relevant to the Committee’s Inquiry.

I have no objection, as regards my own interests, to the publication of these messages in full. However, I seek an assurance from the Committee that any issues relating to Alex Salmond’s data rights or legal privilege will be properly considered before publication, including whether his consent is required.

Subject to the above, I will be happy to discuss any aspect of my response with the Committee in oral session.

I have structured my response in line with your paragraph headings. Please note that any and all involvement I had in my capacity as First Minister in the Complaints Policy Development, Complaints Handling Procedure and Judicial Review - and any relevant documentation in respect thereof - will be included in the Scottish Government’s submissions to the Committee.

The information I provide in this response relates to my actions in a party/personal capacity. This includes my decision to advise the Permanent Secretary of information I acquired in my party/personal capacity, where I considered that the interests of the Scottish Government required it. I refer in this submission to the letter I wrote to the Permanent Secretary on 6 June 2018. A copy of this should be requested from the Scottish Government.

COMPLAINTS POLICY DEVELOPMENT

As a personal reflection and for context, the development of the Scottish Government's "Handling of harassment complaints involving current or former Ministers" (hereinafter referred to as "the Procedure") took place against the backdrop of the #MeToo movement, which started in late 2017 in the wake of allegations extending back over several years about certain high profile individuals.

The concerns being expressed globally at that time were that too many organisations did not have procedures in place that allowed allegations of sexual harassment to be raised or properly investigated; that women's voices were often not heard or listened to; that organisations too often closed ranks in defence of men accused of inappropriate behaviour; and that it could be particularly difficult for 'historic' allegations to be raised.

The media had also reported concerns about the prevailing culture in Holyrood.

The Scottish Government was just one of many organisations across the globe confronted with these questions at that time, and considering its procedures and culture in light of them.

You will also recall that a Scottish Government minister resigned in early November 2017 over concerns about sexually inappropriate conduct.

As First Minister, I wanted to ensure that the Scottish Government had robust procedures in place to allow any concerns or complaints by those in its employment to be properly and fairly considered, without fear or favour and regardless of the seniority or political affiliation of any individuals who might be the subject of such concerns or complaints.

My role as First Minister in the development of the Procedure will be set out in the Scottish Government's submission to the Committee. COMPLAINTS HANDLING PROCEDURE
Any involvement in my role as First Minister will be included in the Scottish Government submission on the handling of the complaints.

I provide further information in a personal/party capacity in Annex A. JUDICIAL REVIEW
The detail of my involvement in decisions associated with the Judicial Review will be set out in the Scottish Government's submission to the Committee.

MINISTERIAL CODE

The Committee is aware that I have made a self referral to the independent panel of advisers on the Ministerial Code.

However, I address the requests in this section in Annex A to this letter.

Annex B includes communications in the form of WhatsApp messages between me and Alex

Salmond.

My letter to the Permanent Secretary dated 6 June 2018 should be requested from the Scottish Government.

PARTY POLITICAL MATTERS

I had no communication with the SNP relevant to the subject matter of the Committee's inquiry, other than approving the party's public comments after the matter became public in August 2018.

My husband was obviously aware of Mr Salmond's presence in our home on 2 April and 14 July 2018, but he was not present at the meetings and I did not share the detail with him.

As I outline in Annex A, when I agreed to meet with Alex Salmond on 2 April 2018, I believed that what he was about to tell me may require a public response from the SNP. Indeed, I suspected that he may be about to resign from the SNP.

In the event, it was clear to me at the 2 April meeting that his approach to handling the matter was not likely to result in it becoming public at that stage.

Accordingly, there was nothing for me to alert the SNP to, and it was not appropriate for me to disclose the fact or detail of the complaints and investigation under the Procedure.

In relation to ensuring that there is a clear distinction between my role as First Minister and my role in the SNP, I have regard to the terms of both the MSP and Ministerial Codes of Conduct.

My Special Advisers abide by the terms of the Special Advisers' Code of Conduct and the Civil Service Code.

In relation to the question about Scottish Government communication and records, this is covered by Scottish Government procedures on the recording and retention of information.

The SNP communicates with its post holders in the normal ways - including meetings, emails and phone calls.

The safeguard to ensure this is distinct from government communications are the relevant Codes that MSPs, Ministers and Special Advisers are bound by.

To be clear, members of the public often email my SNP or MSP accounts about government business and I forward these to my ministerial private office.

On any other occasions when I email my ministerial private office or special advisers from my personal email - eg with diary queries or information requests - these will be to a Scottish Government email account and retained in line with standard procedures.

And all government business, no matter the platform/medium it is conducted on/through, is subject to Freedom of Information legislation. CULTURE

I had no general concerns at the time about Scottish Government culture from 2008-14, and certainly not about sexual harassment. However, government is a high pressure environment. Mr Salmond could be challenging to work for and, rightly, he demanded high standards. However, I was present on some occasions when tense situations had to be defused.

Certain matters that I have become aware of through the events of the last couple of years raise - retrospectively - some other concerns.

I have no general concerns about the culture of the Scottish Government now. However, I am not complacent about the potential for instances of inappropriate behaviour within a large organisation. That is why it is important to have clear and robust procedures in place which, subject to any views of this Committee on the Procedure, I believe to be the case.

I have no comment to make on the adequacy of the Civil Service Code. I give some personal reflection on the Ministerial Code in Annex A - however, the adequacy of it is a matter the independent panel will be able to consider.

CONCLUSION

In conclusion, I would like to add the following personal reflections.

The Committee will be considering the Scottish Government's handling of complaints raised under the Procedure. That is, of course, legitimate.

However, the Scottish Government would have had nothing to 'handle' had complaints not been raised about Alex Salmond's conduct.

It was the concerns raised about his conduct - an aspect of which, by his own admission, he apologised for - that gave rise to this matter.

In my view, when these complaints were raised, the Scottish Government had a duty to investigate them and the fact that a mistake was made in the conduct of the investigation does not change that fact. To have swept them under the carpet because of who they related to would have been wrong.

As far as my personal involvement is concerned, over the last couple of years, I have faced accusations of 'conspiring' against Alex Salmond and also of 'colluding' with him.

I reject in the strongest possible terms both of these suggestions.

Indeed it seems to me that what some want to present as 'conspiracy' is in actual fact my refusal to 'collude' or 'cover up'.

In what was a very difficult situation - personally, politically and professionally - I tried to do the right thing. Whether I always got it absolutely right is something I still reflect on, and the Committee will consider, but I sought all along to act in good faith and to strike the right balance of judgment given the difficult issues I was confronted with.

In the light of the #MeToo movement, I sought to ensure that the Scottish Government developed a process that allowed allegations of sexual harassment - including allegations of a historic nature - to be fully and fairly considered.

I did not do this *because* I had a concern (as set out in Annex A) that allegations about my predecessor could materialise. But nor did I, in any way, allow such concern to lead me to limit the scope of the procedure.

I agreed to meet a friend of 30 years when I was told he was in distress and wanted to talk to me about a serious matter.

And it is certainly the case that I was anxious to prepare my Party as far as possible for an issue that, at different stages, I thought could be about to become public.

However, I did not seek to prevent or influence the proper consideration of the complaints.

For the sake of the complainers, the Scottish Government and indeed Alex Salmond himself, I acted in a way that I judged would best protect the independence and confidentiality of the investigation.

However, when I became aware of a serious risk of legal action against my government, I felt I had a duty to make the Permanent Secretary aware of it.

My view throughout was that complaints must be properly and fairly considered, no matter who the subject of them might be, or how politically inconvenient the investigations may be.

And that remains my view, even though the circumstances and consequences of this particular investigation have caused me - and others, in many cases to an even greater extent - a great deal of personal anguish, and resulted in the breakdown of a relationship that had been very important to me, politically and personally, for most of my life.

Lastly, since August 2018 I have taken care to say nothing that could compromise other proceedings, including the Committee's inquiry - even though that has meant being unable to say more about my own actions or challenge misrepresentations about them.

Yours Sincerely

NICOLA STURGEON

Re: FW: Ministerial code investigation

From: James Hamilton <[REDACTED]@[REDACTED]>
To: [REDACTED]@gov.scot>
Date: Thu, 14 Jan 2021 10:20:28 +0000

Hi [REDACTED]

Yes, I think so. If they have the letters they should be able to understand the position and any further comment from me would be superfluous.

Thanks

James

On Thu, 14 Jan 2021 at 10:13, <[REDACTED]@gov.scot> wrote:

Hi James,

Further communications from the BBC. I think this might best be answered with the general no comment line, and some factual background information, referencing that SG had issued your letter to the media, and that your letter to MSPs has been reported on social media.

If you are content with that, I can reply to the journalist along those lines.

Best wishes,

[REDACTED]

-----Original Message-----

From: [REDACTED]@bbc.co.uk>
Sent: 14 January 2021 09:46
To: [REDACTED]@gov.scot>
Subject: Ministerial code investigation

Hi [REDACTED]

I am just following up the report in today's Sun suggesting the scope of Mr Hamilton's investigation will be widened to consider the various claims made in Mr Salmond's submission. Can you clarify?

Many thanks.

[REDACTED]
Political Editor
BBC Scotland News
[REDACTED]

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From: [REDACTED]
Sent: 14 January 2021 16:25
To: 'James Hamilton' [REDACTED]
Subject: RE: First Minister's written statement

Word version with password.

From: [REDACTED]
Sent: 14 January 2021 16:09
To: 'James Hamilton' [REDACTED]
Subject: RE: First Minister's written statement

Hi James,

I've reattached a PDF. Will dig out the word doc shortly!

Best wishes,

[REDACTED]

From: James Hamilton [REDACTED]
Sent: 14 January 2021 15:27
To: [REDACTED] [\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: First Minister's written statement

Hi [REDACTED]

For some reason I can no longer open this and I need it to work on. It must be too secure!

Can you send it again?

James

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9 October 2020

Dear Mr Hamilton

SCOTTISH MINISTERIAL CODE: SELF REFERRAL

Thank you for your letter of 8 September. Please find enclosed the following:

Annex A: I have provided, as requested, a general statement about my actions and involvement in the matters covered by your remit. Please note that I have also provided this statement to the Scottish Parliament Committee on the Scottish Government Handling of Harassment Complaints (hereinafter referred to as "the Committee").

Annex B: I have enclosed a transcript of WhatsApp messages between myself and Alex Salmond. This information has also been provided to the Committee and I was advised by the clerks that Mr Salmond has asserted legal privilege over the message from him to me dated 16 July 2018 and asked for it to be redacted.

Annex C: A copy of my covering letter to the Committee dated 4 August 2020. The letter is enclosed for completeness. It covers matters that you may consider go beyond your remit but also some information that appears to me to fall within it and which you may find helpful.

As you may be aware, my submission to the Committee has now been published - however, I thought it would be helpful to attach it here for ease of reference.

I will now turn to the specific questions in your letter. Most of them are addressed in the Annexes attached - however, where it seems you are requesting additional information or that I can usefully expand on any points, I will do so below.

Please note that in the Annexes detailed above and in the answers below, I have taken care not to provide any information that would seem to me to risk breaching the order of the High Court in *HMA v AEA Salmond*. If, as a result, it appears to you that there are questions I am not answering directly, I would be happy to discuss this further with you.

Question 1

All of my contacts with Mr Salmond between 16 January and 18 July 2018 are detailed in Annex A. You will note from that account that after my final conversation with him on 18 July, he sent me two further messages - on 18 and 20 July. These are included in Annex B. I did not respond to these messages.

I can confirm that I have had no contact with Mr Salmond - direct or indirect - since.

Question 2

I met with Geoff Aberdeen, former Chief of Staff to Mr Salmond, in my office in Parliament on 29 March 2018. The circumstances and nature of this meeting are set out in Annex A.

He was mainly, as I recall now, seeking to persuade me to meet with Mr Salmond. I think the assumption in my mind at the time of this discussion was that any issues of alleged sexual conduct against Mr Salmond would be related to the matter raised by Sky News in the query a

few months earlier. [REDACTED]

[REDACTED] this would have meant nothing to me as I had not been aware of any such instance. The reference however makes sense in light of what Mr Salmond told me on 2 April.

As I set out in Annex A, I had forgotten about this encounter until I was reminded of it in early 2019. Since the publication of my evidence to the Committee, it has been asked of me how it is possible that I could have forgotten such an encounter.

It is obviously not possible for anyone to be certain of the reasons for forgetting an event. But the reasons I think this meeting was not engraved in my mind (beyond the fact that it was an unscheduled meeting in the middle of a busy day) are alluded to in my Committee submission, and it may be helpful for me to expand.

Firstly, by the time I met with Mr Aberdeen, I already had what I describe as a 'lingering concern' that allegations may emerge about Mr Salmond. This was as a result of the Sky media query in November 2017. In other words, the meeting was not the first time possible allegations about Mr Salmond had been raised with me - had it been, my memory may have been more vivid. But the second, and perhaps more relevant factor is that my meeting with Mr Salmond himself a few days later on 2 April was so significant. It was then that he told me the details of the actual complaints against him and his response to them. I think it is because this was such a shock to me that the earlier meeting was overwritten in my mind.

Question 3

There were no meetings - other than those I have declared - between anyone representing me and Mr Salmond.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Question 4

A summary of the purpose of, and participation in, each of the contacts is provided in Annex A. The messages at Annex B also include relevant detail. I expand on the purpose of and reasons for each of the contacts in my response to Question 5.

However, I include under this question detail of the following: who initiated each meeting; how long (as far as I can recall) each contact lasted; and who was present.

I did not make a record of any of the contacts. However, I gave a verbal account of each of them to my Chief of Staff.

2 April

This meeting was initiated by/on behalf of Mr Salmond. The others present in my home throughout - though only involved in part of the discussion - were my Chief of Staff, Geoff Aberdein and Duncan Hamilton (who I believe was acting in a legal capacity for Mr Salmond). I had not been aware in advance that Mr Hamilton would be in attendance. My recollection is that Mr Salmond, Mr Aberdein and Mr Hamilton were present in my home for an hour or two. My Chief of Staff was there longer as we had other matters to discuss.

At the meeting, Mr Salmond shared the details of the complaints with me and gave me his response to them - part of this was that he had previously apologised for an aspect of one of them. He also told me that he intended to seek a process of mediation with the complainers. As it was clear to me then that these were complaints under the Scottish Government's Procedure, I knew I had no role and would not be made aware by the Permanent Secretary until any investigation concluded. I was clear to Mr Salmond that I would not intervene.

23 April

The call was initiated by Mr Salmond. My Chief of Staff was in the room with me during this call but not on the line. I think it lasted around 10/15 minutes in total.

7 June

Mr Salmond requested this meeting. I initially declined but, for reasons set out below, later agreed to it. Mr Salmond and I were the only attendees. My Chief of Staff was aware of the meeting but not present - though she did interrupt to bring it to an end as I had other matters to attend to.

14 July

This meeting should probably be described, for the following reasons, as initiated partly by Mr Salmond and partly by [REDACTED]

Mr Salmond and I were the only attendees at the meeting on 14 July. I think the meeting lasted around an hour.

18 July

This call was initiated by me. No one else was on the line or present during it. It lasted around 10/15 minutes.

Question 5

After the meeting of 2 April, it was not my intention to meet with or speak to Mr Salmond about the matter again.

My reason for agreeing to the call on 23 April is not dissimilar to the reasons I agreed to the 2 April meeting.

When he contacted me on 22 April, I again thought it possible that he was intending to respond in a way that would make the matter public. To explain, it would have been very much in character for him to have made a bold public declaration about the complaints made against him in order to, as he would see it, 'take control of the story'. This could have been along the lines of 'I'm standing down from SNP while I fight to clear my name' or even a partial mea culpa 'I've made mistakes, but I'm not guilty of what I am accused of'. Back then, this is what I assumed he would eventually do.

As Party Leader, I was keen not to be blindsided by such a development, and that is why I agreed to the call.

However, on the call he asked me to advise the Permanent Secretary that I knew of the investigation and persuade her to accede to his request for mediation. I told him emphatically that I would not do so.

When he contacted me on 31 May seeking a meeting, I initially resisted. I still thought it possible that he might 'go public', but the content of our conversation on 23 April and the tenor of his messages to me on 31 May/1 June made me think this was unlikely at that stage.

Therefore, my intention was to decline this meeting request.

However, the tone and content of his message of 3 June changed my view of the matter. The tone of it seemed almost intimidatory and the content made clear he was considering legal action. As a result, I decided to inform the Permanent Secretary.

This was not a decision I took lightly - as I set out in my general statement and below, my decision not to inform the Permanent Secretary of my knowledge, also not taken lightly, had been about protecting the integrity and confidentiality of the process.

I decided to make it known to him that I had informed the Permanent Secretary, and make clear again that I would not intervene as he wanted me to. I indicated to the Permanent Secretary in my letter to her that I intended to have such a conversation with him.

I felt it important to do this, firstly, because Mr Salmond can be persistent and will often interpret conversations or messages in a way that best suit his interests. I wanted to leave no room for misinterpretation.

Also, I believed it highly likely that our paths would cross towards the end of that week at the SNP Conference (as it turned out, I don't think he did attend), and I considered that speaking to him in a planned way was better than him trying to 'corner' me.

As for the content of the meeting on 7 June, I advised him of the action I had taken and made clear again that I was not prepared to intervene in the process. He wanted to give me a document to take away which I believe was a legal opinion he had obtained. I declined to do so. He stated his intention to take legal action if necessary. I expressed an opinion that given the seriousness of the complaints he should consider addressing the substance of them.

By the time of the meeting on 14 July, I was again concerned that the matter might become public. As set out above, I always thought it possible, even likely, that this was the course Mr

Salmond would ultimately take. And had he taken legal action - which I knew he was considering - this could also have put matters into the public domain.

At that meeting, he told me he was asking the Scottish Government to agree a process of arbitration. For reason that I didn't understand then - and don't understand now - he believed I was blocking this. I told him that wasn't so as I had no involvement in the process.

I suggested again that he should address the substance of the complaints rather than simply focusing on procedure.

Although he indicated he would reflect on this, he was focused on his request for arbitration and seeming unwilling to accept that I would not put pressure on the Permanent Secretary to accede to it.

By this time, it was clear that my relationship with Mr Salmond was breaking down. He was clearly upset and angry that I was not assisting him to achieve the outcome he wanted.

I was also upset with him. The nature of the complaints against him and the account he had given me of one of them had badly shaken my faith in him.

However, in spite of that, I did not want our relationship to break down completely. He had been my friend and colleague for 30 years.

It was this that prompted my call to him on 18 July. I wanted to draw a line under our contact about the matter. I was also about to take a short summer break and I didn't want it interrupted by contact from him. However, I think I was also hoping to make him understand and accept why I couldn't and wouldn't intervene.

Question 6

I advised the Permanent Secretary of the meeting on 2 April and the call on 23 April, in my letter to her of 6 June 2018 (I do not personally hold a copy of this letter - it is held by the Scottish Government and I understand that it has been provided to you by the Permanent Secretary).

My letter indicated that I intended to speak to Mr Salmond again, which I did on 7 June. I later told the Permanent Secretary that I had done so, though we did not have any detailed discussion about it.

I advised her on 16 July of my meeting with Mr Salmond on 14 July and made her aware of his belief that I was blocking arbitration. I made clear to her again that I had no view on the matter and the decision was hers alone. I also told her - I think on my return from annual leave - that I had spoken to him on the phone on 18 July, but I did not discuss the details.

The Permanent Secretary wrote to me on 17 August 2018 informing me that she intended to seek [REDACTED]

She then wrote to me on 22 August 2018 - in line with the Procedure - informing me that she had concluded the investigation, upheld certain complaints and referred the matter to the police.

I assume the letters of 17 and 22 August will be provided to you by the Permanent Secretary if required.

At every stage of my contacts with Mr Salmond I considered the obligations of the Ministerial Code - and my obligations as First Minister more generally. I gave particular consideration to the Code after the meeting on 2 April and discussed this with my Chief of Staff.

It seemed to me then - and I believe this to be the case now - that the Code does not envisage or provide for the particular circumstances of the situation I was faced with. In truth, it felt to me that I was in a Catch 22 situation - had I relied on the relevant parts of the Code, I would have compromised the confidentiality and independence of the process. And if I decided - as I did - because I consider it to be the case - that the Code does not provide for the circumstances of this situation, I could find myself accused of breach, as indeed has happened. The judgment I made was that the integrity, independence and confidentiality of the process was paramount.

To explain more fully, the relevant sections of the Ministerial Code, which I consider to be sections 4.22 and 4.23, seek to guard against undisclosed outside influence on decisions that Ministers are involved in and likely to have an influence on. It seemed to me that this was the opposite situation. This was a decision I was excluded from - indeed not meant to know about at all - and it seemed to me that the risk of inadvertently and unintentionally influencing it would arise if those undertaking the investigation became aware of my knowledge of it.

Further, according to my reading of these sections of the Code, my contact with Alex Salmond - once notified - would have had to be made public. There would have been media interest had a meeting between me and Alex Salmond appeared in my published diary, and it was not clear to me how I could have addressed the questions that would have been asked, without in the process compromising the confidentiality of the process.

My judgment, therefore, was that the best way to protect the process - in the interests of the complainers, the government and Mr Salmond himself, was not to make my knowledge of it known. This judgment changed when I had reason to believe that legal action against the government was being considered.

Question 7

I discussed matters with my Chief of Staff throughout - in particular in relation to the Ministerial Code. I did not ask the Permanent Secretary, any civil servant or other special adviser for advice. I would point out that this was in the context of seeking to protect the confidentiality of the process.

I hope I have addressed all your questions. I am, of course, happy to expand on any point should you find it helpful and to discuss all matters further in interview with you.

Your sincerely

NICOLA STURGEON MSP

ANNEX A

Alex Salmond told me on 2 April 2018 at a meeting at my home that complaints against him were being investigated under the Procedure. At that meeting, he showed me a copy of the letter he had received outlining the detail of the complaints.

As has been reported already, four days earlier - 29 March 2018 - I had spoken with Geoff Aberdein (former Chief of Staff to Alex Salmond) in my office at the Scottish Parliament.

Mr Aberdein was in Parliament to see a former colleague and while there came to see me.

I had forgotten that this encounter had taken place until I was reminded of it in, I think, late January/early February 2019.

For context, I think the meeting took place not long after the weekly session of FMQs and in the midst of a busy day in which I would have been dealing with a multitude of other matters.

However, from what I recall, the discussion covered the fact that Alex Salmond wanted to see me urgently about a serious matter, and I think it did cover the suggestion that the matter might relate to allegations of a sexual nature.

[REDACTED]

The impression I had at this time was that Mr Salmond was in a state of considerable distress, and that he may be considering resigning his party membership.

However, while I suspected the nature of what he wanted to tell me - for reasons set out below - it was Alex Salmond who told me on the 2 April that he was being investigated under the Procedure - and what the detail of the complaints was. It is this meeting - due to the nature of the information shared with me at it - that has always been significant in my mind.

As stated above, I suspected the reason Alex Salmond wanted to see me on April 2 was that he was facing an allegation of sexual misconduct.

Although my contact with Mr Aberdein on 29 March 2018 may have contributed to that suspicion, it was not the only factor.

For example, in early November 2017, the SNP received an enquiry from Sky News about allegations of sexual misconduct on the part of Alex Salmond.

I spoke to Mr Salmond about this allegation at the time. He denied it and, as it happened, Sky did not run a story about it at that time. Since the identity of the individuals was not made known to us and they did not approach the SNP directly, there was no further action that it would have been possible to take.

However, even though he assured me to the contrary, all of the circumstances surrounding this episode left me with a lingering concern that allegations about Mr Salmond could materialise at some stage.

It is reasonable to ask why, if I suspected the nature of what he wanted to speak to me about on 2 April, I nevertheless agreed to the meeting.

The answer is both political and personal.

I thought Mr Salmond may be about to resign from the SNP and that, as a result of this or other aspects of how he intended to handle the matter he was dealing with, the party could have been facing a public/media issue that we would require to respond to.

As Party Leader, I considered it important that I knew if this was in fact the case in order that I could prepare the party to deal with what would have been a significant issue.

There is also the personal aspect. Mr Salmond has been closer to me than probably any other person outside my family for the past 30 years, and I was being told he was very upset and wanted to see me personally.

To return to the meeting on 2 April 2018, although others were present, Mr Salmond initially asked to see me privately.

He advised me that he was being investigated under the Procedure and showed me a copy of the letter he had received.

Notwithstanding the suspicions I had harboured going into this meeting, I was shocked and upset by the reality of what I read.

He gave me his reaction to the complaints - in the main he denied them, though in relation to one matter he said that he had previously apologised and considered it out of order for it to be raised again - and said that it was his intention to seek a process of mediation between himself and the complainers.

It was also clear - contrary to what I had anticipated - that he did not intend to resign his party membership or do anything to make the matter public at that stage.

I made clear to him that I had no role in the process and would not seek to intervene in it.

I took no action as a result of this meeting.

Mr Salmond sent me a message on 22 April 2018 asking to speak to me by phone.

As previously advised to Parliament, I spoke to him by phone on 23 April (the substantive call took place early evening after a call in the morning had to be aborted due to poor signal).

He asked me if I would make the Permanent Secretary aware that I knew about the investigation and encourage her to accept his request for mediation.

I said that I was not willing to do so. A special adviser was in the room with me during this call, though not on the line.

Mr Salmond sent me a message on 31 May 2018 asking to meet.

I did not agree to a meeting at that time.

Mr Salmond sent me a further message on 3 June 2018.

Both the tone and content of this message led me to conclude that legal action by Mr Salmond against the Scottish Government was a serious prospect.

I decided that I should make the Permanent Secretary aware of this, and I wrote to her on 6 June 2018.

At this juncture, it may be helpful to briefly set out for the Committee why I had not previously informed the Permanent Secretary of my contact with Alex Salmond or my knowledge of the investigation.

The relevant sections of the Ministerial Code (4.22 and 4.23) seek to guard against undisclosed outside influence on decisions that Ministers are involved in. It seemed to me that this was the opposite situation. This was a decision I was excluded from and it seemed to me that the risk of inadvertently and unintentionally influencing it would arise if those undertaking the investigation were aware of my knowledge of it.

The risk - even if theoretical and subconscious - would be that considerations of what I might think would influence the decisions taken.

Further, according to my reading of these sections of the Code, my contact with Alex Salmond - once notified - would have had to be made public. This could have compromised the confidentiality of the process.

My judgment, therefore, was that the best way to protect the process was not to make my knowledge of it known. This judgment changed when I had reason to believe that legal action against the government was being considered.

Having decided to write to the Permanent Secretary, I agreed to meet Mr Salmond and sent him a message to this effect on 5 June 2018.

The references in this message to 'what I need to do' and 'update' refer to my decision to write to the Permanent Secretary.

I intended to make him aware that I had done so and, in so doing, make clear again that I would not intervene in the process.

My letter to the Permanent Secretary advises her that I intended to do this. As advised to Parliament, this meeting took place in Aberdeen on 7 June 2018. No one else was present at this meeting.

My other reason for wanting to meet with him proactively at this stage was the SNP conference that was about to take place over the following days in Aberdeen. I assumed he would be there (though as it turned out, I don't think he did attend) and I didn't want to be 'cornered' by him during it.

Mr Salmond sent me a further message on 5 July 2018.

I did not respond in any way to this message.

The next contact between Mr Salmond and I was on 13 July 2018, which led to our third and final meeting being arranged for 14 July at my home.

By this time, I was again anxious - as Party Leader and from the perspective of preparing my party for any potential public issue - to know whether his handling of the matter meant it was likely to become public in the near future.

It was clear at the meeting that he was still seeking a process of arbitration around his concerns about the procedure.

He had formed a belief that it was me who was blocking arbitration. I told him that was not the case and I was not involved in the decision.

I also suggested to him that given their seriousness, he should engage on the substance of the complaints and not just focus on procedure.

Mr Salmond sent me further messages on 15 and 16 July 2018. The message of 15 July is Mr Salmond's interpretation of me saying that I was not involved in the decision.

On 16 July, I made the Permanent Secretary aware of the meeting on 14 July 2018 and the subsequent messages. I also made her aware of Mr Salmond's belief that I was blocking arbitration.

Given the risk of legal action, I did not want any suggestion that an opinion attributed to me (which I hadn't expressed) was influencing decisions I had no part in.

I reiterated to her that she must reach whatever decisions she considered appropriate and I did not seek to influence her in any way.

As advised to Parliament, I also spoke to Mr Salmond on the phone on 18 July 2018. I wanted to draw a line under our contact. I was also about to take a two day summer break and did not want him trying to contact me during it. I have not spoken to Mr Salmond since.

However, later on 18 July, he sent me a copy of a letter he had received from the Scottish Government. I did not respond to this message.

He sent me a further message on 20 July 2018. Again, I did not respond.

I have had no contact with Mr Salmond since.

ANNEX B

[22/04/2018, 20:31:29] Alex Salmond: it would be very helpful if I could call you on WhatsApp 10.30am and 12 noon tomorrow

[22/04/2018, 21:05:25] Nicola Sturgeon: I'll be in the car until 11 on way to Inverness - so 10.30 will be ok. I'll not be free again after that until 12.30/1. There will be others in car so I'll not be able to talk openly...it'll be later in day before I can be in private.

[22/04/2018, 22:03:57] Alex Salmond: In which case I will Phone just after 10.30am with update and we can perhaps speak properly later on.

[31/05/2018, 11:24:01] Alex Salmond: In Glasgow tomorrow - could we meet?

[31/05/2018, 11:39:09] Nicola Sturgeon: Tomorrow's very difficult - is it urgent?

[31/05/2018, 11:45:01] Alex Salmond: Next few days. I could do tomorrow evening or Monday from lunchtime onwards.

[31/05/2018, 11:46:29] Nicola Sturgeon: The only time I could possibly do tomorrow is around 4. Is it about what we spoke about before?

[31/05/2018, 11:56:46] Alex Salmond: Yes

[31/05/2018, 11:56:59] Alex Salmond: 4 is fine - same place?

[31/05/2018, 17:07:08] Nicola Sturgeon: Tomorrow is actually proving tricky given other stuff I've got on. I'm trying to juggle a couple of things - will confirm later/in morning if 4pm possible and if not suggest alternative.

[31/05/2018, 19:23:01] Alex Salmond: I suggest just two of us - I can leave you with some material to digest over weekend - Meeting itself need not take long but tomorrow would be best if poss.

[01/06/2018, 07:51:32] Nicola Sturgeon: Sorry but I just can't do today - I don't have time to get home given other stuff. Happy to speak on phone over weekend and see what else is possible.

[01/06/2018, 09:36:59] Alex Salmond: Phone not appropriate - there is material you need to see and assess privately. Can I come to you Sunday or very first thing Monday?

[01/06/2018, 13:37:54] Nicola Sturgeon: I'm not at home at weekend and in Aberdeen on Monday. In any event, I'd prefer a quick chat first to understand the purpose of giving me material. We've already spoken about why I think me intervening is not right thing to do. Happy to talk on what's app at some point over weekend.

[03/06/2018, 10:15:00] Alex Salmond: My recollection of our Monday 2 April meeting was rather different. You wanted to assist but then decided against an intervention to help resolve the position amicably. Now is different. I was intending to give you sight of the petition for JR drafted by senior counsel. You are a lawyer and can judge for yourself the prospects of success which I am advised are excellent. This will follow ANY adverse finding against me by the PS in a process which is unlawful. You are perfectly entitled to intervene if it is brought to your attention that there is a risk of your Government acting unlawfully in a process of which

you had no knowledge. Indeed it could be argued that is your obligation under the Scotland Act is to ensure that all government actions are consistent with Convention undertakings

The JR will be rough for me since the hearing will almost certainly be made public but at least I will have the opportunity to clear my name and good prospects of doing so - but for the Government? One further thing to consider. Thus far we have been able to confine evidence offered to the general (and mostly ridiculous) matters. This has had the benefit of keeping everything well clear of current administration. When we go to Court we will have to produce evidence to demonstrate prior process (which incidentally the PS has admitted!). If you want to discuss privately then I can come to you in the North East on Monday.]

[05/06/2018, 14:02:58] Nicola Sturgeon: Hi - I have been considering your message and what I need to do in light of it. If you still want to meet, I can do tomorrow evening in Edinburgh and update you then. N

[05/06/2018, 19:24:32] Alex Salmond: Happy to meet - soonest I can get to Edinburgh is around 8.30. I take it this is totally informal, one to one.

[05/06/2018, 19:42:38] Nicola Sturgeon: Ok - happy for it to be one to one - will have to be either parliament or Bute, whatever you prefer. The alternative if its easier is Aberdeen on Thursday night - I'll be there from around 8, staying in hotel somewhere near beach ballroom I think.

[05/06/2018, 20:08:30] Alex Salmond: Yes Thursday much better, thanks. I'll be there for 8.30 to give you time to settle in.

[05/06/2018, 20:12:37] Nicola Sturgeon: Ok. It's the Hilton hotel at the beach.

[05/06/2018, 20:17:58] Alex Salmond: Grand

[07/06/2018, 19:00:28] Nicola Sturgeon: You should go to the Platinum reception at the back of hotel later. There's a private room arranged there for us to meet in.

[07/06/2018, 19:07:45] Alex Salmond: OK thanks. Traffic was bad but now well on the way. Should arrive c 8.40 and will give 5 minute warning on approach.

[07/06/2018, 19:09:23] Nicola Sturgeon: I'm running late too - but should be there just before you

[07/06/2018, 19:14:01] Alex Salmond: OK shall we make it 8.50 so we are not rushing

[07/06/2018, 19:25:49] Nicola Sturgeon: I'm ok for as soon as you get there

[07/06/2018, 19:36:24] Alex Salmond: Grand

[07/06/2018, 20:46:30] Alex Salmond: Now in Aberdeen 5 minutes or so

[05/07/2018, 21:18:40] Alex Salmond: Nicola. I have slept on the content of the latest letter from the PS rejecting arbitration. Two points I want to make to you privately. Firstly, the explanation given in the letter is that arbitration is rejected because the SG is confident in the legality of the process. With respect, that entirely misses the point. The SG may well believe it is lawful. My Senior Counsel believes it is unlawful. That's the whole point of the arbitration. The legality will have to be resolved either in private (in a confidential and binding arbitration)

or in public at the Court of Session. The SG, and you, have everything to gain from arbitration. If my legal advice is wrong, I will accept that and the current process proceeds. If the SG legal advice is wrong, you discover that without losing in a public court. Adopting an arbitration process also guarantees confidentiality for the complainers, regardless of what happens. Secondly, the PS has now intimated that an FOI has been submitted. The SG response to that request is of the utmost importance. Confirmation of even the existence of a specific complaint will be sufficient to start a process which leads to the near certainty of these matters becoming public. My legal advice is that a "neither confirm or deny" response which avoids acknowledging the existence of any documents can be issued under section 18 of the FOI Act which covers S38 (1) (b) {personal information}. It is critical that this happens. There remains a way to resolve this but it requires the PS to be encouraged to accept that confidential arbitration offers the best solution and to ensure that the FOI is carefully handled. I hope you will do so but time is now very short.]

[13/07/2018, 11:01:08] Alex Salmond: Grateful for your message [REDACTED] Happy to meet privately. Understand you are away from Monday so given developments presumably this weekend best? I have material which it is important for you to see. I will happily come to you.

[13/07/2018, 11:22:38] Nicola Sturgeon: I'm supposedly on leave from Monday but not going away - I'll be at home so could do next week if that's easier (except Thursday/Friday). Weekend is a bit busy with one thing and another - late tomorrow afternoon probably only time that works. Let me know what you prefer.

[13/07/2018, 14:03:32] Alex Salmond: Great - can we make it tomorrow late afternoon then - I am just rearranging something and will confirm asap.

[13/07/2018, 15:13:10] Alex Salmond: Tomorrow confirmed for late afternoon. - give me your best time and place. Thanks.

[13/07/2018, 15:56:10] Nicola Sturgeon: It'll have to be my house - I should be home by 4 so that's best time. Just so you know, I have to go out again around 6.

[13/07/2018, 15:58:44] Alex Salmond: 4 it is then

[13/07/2018, 15:59:27] Nicola Sturgeon: Ok

[14/07/2018, 15:45:59] Alex Salmond: Ten minutes away

[15/07/2018, 22:42:44] Alex Salmond: Many thanks for making the time yesterday. I am grateful that you will correct the impression being given that you are against arbitration or that it is somehow against your interests. I know that you need to reflect further on how to progress things beyond that and am not blind to the difficulty of legal advice being suspicious of arbitration. I am genuinely at a loss as to what the downside is for anyone, complainers, SG or me or you. The reasons given to date have been meaningless or more recently just a misrepresentation of your position. If there are good legal reasons then surely they can be set out for you/us. I will wait to hear how you are able to proceed. I am also giving much thought to your advice and thinking deeply about how arbitration on process might open up the space and opportunity to address and resolve the underlying matters, as far as is possible, to everyone's satisfaction.]

[16/07/2018, 14:57:50] Alex Salmond: Just in from Duncan to me - for your eyes only

"Senior counsel for SG has just told us he is going to take instruction direct from PS on the question of what attitude he is to take to arbitration. This is exactly the point at which the FM's

position supporting at least the exploration of arbitration can be most influential. Otherwise we are hitting a wall in discussions. Immediate clarification of her position with the PS is required. As in, immediately.”]

[18/07/2018, 20:50:37] Alex Salmond: T: 0131-244 4026

E: perm.sec@gov.scot

Mr Callum Anderson Levy and McRae Pacific House

70 Wellington Street GLASGOW

G2 6UA

Private and Confidential 18 July 2018

Dear Mr Anderson

Thank you for your recent letters, in which you have raised your concern about the fairness of the Scottish Government Procedure. I want, first of all, to assure your client that I am approaching these important issues with the greatest of care and with an open mind. It remains the view of the Scottish Government that our Procedure is fair and legally sound. We have ensured from the outset that your client had every opportunity to provide a statement of his recollection of the events described in the “causes for concern” set out in my letter of 7 March. We granted a number of extensions to the initial deadline for such a statement to be provided. Your client was also offered the opportunity to speak to the Investigating Officer directly but he declined to do so.

Your client has chosen not to provide a substantive response to the complaints made by Ms A and Ms B (causes for concern A – I) although he has made clear his denial that any harassment took place. Your letter of 26 April included quotations “in short none of the allegations are admitted” and “I categorically deny that I have ever harassed any civil servant”.

Although you continue to express concern about the overall fairness and legality of the Procedure your letter of 26 April did include a substantive response to causes for concern J – K. That letter also identified 5 witnesses to be interviewed - limited to those causes for concern only.

Contact information for those witnesses was provided by you on 8 May. Witnesses were interviewed by the Investigating Officer and their statements were finally agreed by all parties by 28 June after a number of postponements and delays.

You have proposed arbitration in relation to the Procedure and explained why you consider it to be appropriate. The Scottish Government has explained in previous letters and in exchanges between legal representatives why we do not agree. However, for completeness and to ensure our position is understood we make the following points.

First, we consider that we have given your client a fair opportunity to address the complaints, and that the procedure which we have followed is a fair one.

- We do not consider that arbitration would be appropriate to the circumstances. This is an investigation of serious complaints made by civil servants involving a former Minister.

Submitting the process to an external decision maker would not be appropriate.

- As the decision maker, I have to balance a range of interests, and to ensure a Procedure which is fair both to your client and to the complainers. Arbitration of the SG process would not involve the complainers.

- As decision maker I have a duty to bring the investigation to a conclusion as efficiently and timeously as possible. Arbitration would cause unavoidable further delay.

- However tightly a remit were drawn, it seems unlikely that it would be possible to separate the procedural points which you have raised from issues of substance or content in a way which would allow those procedural concerns to be addressed.

Your client has provided a substantive response to causes for concern J – K. However, it remains my view that his interests and those of the investigation as a whole would best be served by him providing a substantive response to each of the causes for concern – and it is a matter of regret that he has chosen not to do so.

Consequently I am offering your client, even at this late stage, a final opportunity to provide any further representations about the complaints made by Ms A and Ms B.

Given the time that has elapsed since first notifying your client of the investigation you must confirm if your client wishes to take up this opportunity no later than 11 am on 19 July. Any further representations must be received by 3 pm on Friday, 20 July if they are to form part of my consideration.

Should your client choose not to take up this final opportunity I shall proceed to consider the report on the basis of the information he has already provided and will write to you again to inform you of the outcome.

Yours sincerely

LESLIE EVANS

[18/07/2018, 20:52:21] Alex Salmond: As you see the time allowed is tomorrow morning at 11am

[20/07/2018, 22:37:18] Alex Salmond: A full rebuttal of all complaints went in by the deadline today. Let us see how it is judged.

ANNEX C

4 August 2020

Dear Convener

I refer to your letter of 7 July.

Please treat this covering reply and attached annexes as my response to the questions posed in your letter.

With regard to paragraph 5 of Annex B of your letter, noting that “the Committee and all participants must comply with the court order made by the Lord Justice Clerk, Lady Dorrian, on 10 March 2020”, I have excluded from this letter any information that, as far as I am aware, might disclose the identity of any of the complainers in HMA v AEA Salmond.

However, I do not know if my submission would pose a risk in ways I am not aware of, or if other evidence submitted would risk jigsaw identification.

Therefore, prior to publication of all or part of this submission, I would like assurance on the steps the Committee has taken to ensure that nothing in it, either on its own or taken together with anyone else’s evidence, would risk identification.

The Committee previously asked me to retain all information relevant to the Inquiry. I enclose at Annex B a transcript of WhatsApp messages between myself and Alex Salmond. This is the only information I hold relevant to the Committee’s Inquiry.

I have no objection, as regards my own interests, to the publication of these messages in full.

However, I seek an assurance from the Committee that any issues relating to Alex Salmond’s data rights or legal privilege will be properly considered before publication, including whether his consent is required.

Subject to the above, I will be happy to discuss any aspect of my response with the Committee in oral session.

I have structured my response in line with your paragraph headings. Please note that any and all involvement I had in my capacity as First Minister in the Complaints Policy Development, Complaints Handling Procedure and Judicial Review - and any relevant documentation in respect thereof - will be included in the Scottish Government’s submissions to the Committee.

The information I provide in this response relates to my actions in a party/personal capacity. This includes my decision to advise the Permanent Secretary of information I acquired in my party/personal capacity, where I considered that the interests of the Scottish Government required it. I refer in this submission to the letter I wrote to the Permanent Secretary on 6 June 2018. A copy of this should be requested from the Scottish Government.

COMPLAINTS POLICY DEVELOPMENT

As a personal reflection and for context, the development of the Scottish Government’s “Handling of harassment complaints involving current or former Ministers” (hereinafter referred

to as “the Procedure”) took place against the backdrop of the #MeToo movement, which started in late 2017 in the wake of allegations extending back over several years about certain high profile individuals.

The concerns being expressed globally at that time were that too many organisations did not have procedures in place that allowed allegations of sexual harassment to be raised or properly investigated; that women’s voices were often not heard or listened to; that organisations too often closed ranks in defence of men accused of inappropriate behaviour; and that it could be particularly difficult for ‘historic’ allegations to be raised.

The media had also reported concerns about the prevailing culture in Holyrood.

The Scottish Government was just one of many organisations across the globe confronted with these questions at that time, and considering its procedures and culture in light of them.

You will also recall that a Scottish Government minister resigned in early November 2017 over concerns about sexually inappropriate conduct.

As First Minister, I wanted to ensure that the Scottish Government had robust procedures in place to allow any concerns or complaints by those in its employment to be properly and fairly considered, without fear or favour and regardless of the seniority or political affiliation of any individuals who might be the subject of such concerns or complaints.

My role as First Minister in the development of the Procedure will be set out in the Scottish Government’s submission to the Committee.

COMPLAINTS HANDLING PROCEDURE

Any involvement in my role as First Minister will be included in the Scottish Government submission on the handling of the complaints.

I provide further information in a personal/party capacity in Annex A.

JUDICIAL REVIEW

The detail of my involvement in decisions associated with the Judicial Review will be set out in the Scottish Government’s submission to the Committee.

MINISTERIAL CODE

The Committee is aware that I have made a self referral to the independent panel of advisers on the Ministerial Code.

However, I address the requests in this section in Annex A to this letter.

Annex B includes communications in the form of WhatsApp messages between me and Alex Salmond.

My letter to the Permanent Secretary dated 6 June 2018 should be requested from the Scottish Government.

PARTY POLITICAL MATTERS

I had no communication with the SNP relevant to the subject matter of the Committee's inquiry, other than approving the party's public comments after the matter became public in August 2018.

My husband was obviously aware of Mr Salmond's presence in our home on 2 April and 14 July 2018, but he was not present at the meetings and I did not share the detail with him.

As I outline in Annex A, when I agreed to meet with Alex Salmond on 2 April 2018, I believed that what he was about to tell me may require a public response from the SNP. Indeed, I suspected that he may be about to resign from the SNP.

In the event, it was clear to me at the 2 April meeting that his approach to handling the matter was not likely to result in it becoming public at that stage.

Accordingly, there was nothing for me to alert the SNP to, and it was not appropriate for me to disclose the fact or detail of the complaints and investigation under the Procedure.

In relation to ensuring that there is a clear distinction between my role as First Minister and my role in the SNP, I have regard to the terms of both the MSP and Ministerial Codes of Conduct.

My Special Advisers abide by the terms of the Special Advisers' Code of Conduct and the Civil Service Code.

In relation to the question about Scottish Government communication and records, this is covered by Scottish Government procedures on the recording and retention of information.

The SNP communicates with its post holders in the normal ways - including meetings, emails and phone calls.

The safeguard to ensure this is distinct from government communications are the relevant Codes that MSPs, Ministers and Special Advisers are bound by.

To be clear, members of the public often email my SNP or MSP accounts about government business and I forward these to my ministerial private office.

On any other occasions when I email my ministerial private office or special advisers from my personal email - eg with diary queries or information requests - these will be to a Scottish Government email account and retained in line with standard procedures.

And all government business, no matter the platform/medium it is conducted on/through, is subject to Freedom of Information legislation.

CULTURE

I had no general concerns at the time about Scottish Government culture from 2008-14, and certainly not about sexual harassment. However, government is a high pressure environment. Mr Salmond could be challenging to work for and, rightly, he demanded high standards. However, I was present on some occasions when tense situations had to be defused.

Certain matters that I have become aware of through the events of the last couple of years raise - retrospectively - some other concerns.

I have no general concerns about the culture of the Scottish Government now. However, I am not complacent about the potential for instances of inappropriate behavior within a large

organisation. That is why it is important to have clear and robust procedures in place which, subject to any views of this Committee on the Procedure, I believe to be the case.

I have no comment to make on the adequacy of the Civil Service Code. I give some personal reflection on the Ministerial Code in Annex A - however, the adequacy of it is a matter the independent panel will be able to consider.

CONCLUSION

In conclusion, I would like to add the following personal reflections.

The Committee will be considering the Scottish Government's handling of complaints raised under the Procedure. That is, of course, legitimate.

However, the Scottish Government would have had nothing to 'handle' had complaints not been raised about Alex Salmond's conduct.

It was the concerns raised about his conduct - an aspect of which, by his own admission, he apologised for - that gave rise to this matter.

In my view, when these complaints were raised, the Scottish Government had a duty to investigate them and the fact that a mistake was made in the conduct of the investigation does not change that fact. To have swept them under the carpet because of who they related to would have been wrong.

As far as my personal involvement is concerned, over the last couple of years, I have faced accusations of 'conspiring' against Alex Salmond and also of 'colluding' with him.

I reject in the strongest possible terms both of these suggestions.

Indeed it seems to me that what some want to present as 'conspiracy' is in actual fact my refusal to 'collude' or 'cover up'.

In what was a very difficult situation - personally, politically and professionally - I tried to do the right thing. Whether I always got it absolutely right is something I still reflect on, and the Committee will consider, but I sought all along to act in good faith and to strike the right balance of judgment given the difficult issues I was confronted with.

In the light of the #MeToo movement, I sought to ensure that the Scottish Government developed a process that allowed allegations of sexual harassment - including allegations of a historic nature - to be fully and fairly considered.

I did not do this *because* I had a concern (as set out in Annex A) that allegations about my predecessor could materialise. But nor did I, in any way, allow such concern to lead me to limit the scope of the procedure.

I agreed to meet a friend of 30 years when I was told he was in distress and wanted to talk to me about a serious matter.

And it is certainly the case that I was anxious to prepare my Party as far as possible for an issue that, at different stages, I thought could be about to become public.

However, I did not seek to prevent or influence the proper consideration of the complaints.

For the sake of the complainers, the Scottish Government and indeed Alex Salmond himself, I acted in a way that I judged would best protect the independence and confidentiality of the investigation.

However, when I became aware of a serious risk of legal action against my government, I felt I had a duty to make the Permanent Secretary aware of it.

My view throughout was that complaints must be properly and fairly considered, no matter who the subject of them might be, or how politically inconvenient the investigations may be.

And that remains my view, even though the circumstances and consequences of this particular investigation have caused me - and others, in many cases to an even greater extent - a great deal of personal anguish, and resulted in the breakdown of a relationship that had been very important to me, politically and personally, for most of my life.

Lastly, since August 2018 I have taken care to say nothing that could compromise other proceedings, including the Committee's inquiry - even though that has meant being unable to say more about my own actions or challenge misrepresentations about them.

Yours Sincerely

NICOLA STURGEON

From: [REDACTED]
Sent: 14 January 2021 13:39
To: Bruce A (Andrew) [REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

Many thanks Andy, I have passed this to Mr Hamilton.

From: Bruce A (Andrew) [REDACTED]@gov.scot>
Sent: 13 January 2021 19:50
To: [REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

[REDACTED]

I am just following up on our previous correspondence. I think you are aware from colleagues in the OCT about some of the sensitivities relating to sharing documents.

My email of 12 October 2020 referred to 2 documents.

I am not able to provide you with a copy of the Permanent Secretary's note to the First Minister on 22 August 2018 informing her of the outcome of the investigation because this is legally privileged.

However, the email exchange between the Permanent Secretary and First Minister's private offices on 20 August has been shared with the Committee on the Scottish Government's handling of harassment complaints. It is INV 675 in FN42 of the initial Scottish Government statement on the investigation of the complaints shared with the Committee on 30 November 2020 – see link below:

[https://www.parliament.scot/HarassmentComplaintsCommittee/General%20documents/SP_SGHHC - FN42.pdf](https://www.parliament.scot/HarassmentComplaintsCommittee/General%20documents/SP_SGHHC_-_FN42.pdf)

Thanks

Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government

[REDACTED]
[REDACTED]@gov.scot

From: Bruce A (Andrew)
Sent: 16 November 2020 18:32
To: [REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

[REDACTED]
I haven't yet know. They are still with the OCT to confirm what can be released in line with the various legal obligations.
I'll chase again now.
Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government

[REDACTED]
[REDACTED]@gov.scot

From: [REDACTED]@gov.scot>
Sent: 16 November 2020 12:44
To: Bruce A (Andrew) [REDACTED]@gov.scot>
Cc: Permanent Secretary [REDACTED]@gov.scot>
Subject: RE: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

Hi Andy,

Apologies for chasing this up, I just wanted to check if you had sent these documents through?

Best wishes,

[REDACTED]
From: Bruce A (Andrew) [REDACTED]@gov.scot>
Sent: 12 October 2020 14:03

To: [REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

[REDACTED]
Just a quick addition to the response I sent on behalf of the Permanent Secretary last week.

Paragraph 3 of the Permanent Secretary's letter refers to informing the First Minister of the outcome of the investigation of complaints against Mr Salmond at a meeting on 22 August 2018. However, the Permanent Secretary also sent the First Minister a written note on 22 August providing this information. I am just having that note prepared to be sent on to you, which I will do as soon as possible.

In addition, there was also some correspondence between the Permanent Secretary's private office and the First Minister's private office on 20 August 2018 setting out the likely timescales for the conclusion of the investigation. This followed the Permanent Secretary's letter to the First Minister on 17 August 2018. Again I will send this on to you with the document referenced above.

Apologies for this – it was an oversight on my part.

Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government

[REDACTED]
[REDACTED]@gov.scot

From: Bruce A (Andrew) **On Behalf Of** Permanent Secretary
Sent: 07 October 2020 19:31
To: [REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

[REDACTED]

With apologies for the delay, please find attached the Permanent Secretary's response to Mr Hamilton's letter of 8 September.

Thanks

Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government

[REDACTED]
[REDACTED]@gov.scot

From: Bruce A (Andrew) **On Behalf Of** Permanent Secretary
Sent: 06 October 2020 17:42
To: [REDACTED] <[REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: RE: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

[REDACTED]

The Permanent Secretary is just finalising her response to Mr Hamilton. However, I'm afraid she will not be in a position to send this today, but will send it by close of play tomorrow.

I hope this is OK and please do pass on her apologies to Mr Hamilton.

Best wishes

Andy

Andy Bruce
Principal Private Secretary to the Permanent Secretary
Scottish Government

[REDACTED] <[REDACTED]@gov.scot>

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Permanent Secretary
Sent: 15 September 2020 11:41
To: [REDACTED] <[REDACTED]@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: Correspondence to Perm Sec - FM Self Referral under Ministerial Code

Hello [REDACTED]

I would like to confirm receipt of James Hamilton's letter to the Permanent Secretary, which I note was copied to yourself. The Permanent Secretary will ensure she responds by the deadline set, 6th of October.

Best wishes,

[REDACTED]
Private Secretary to the Permanent Secretary [REDACTED]

[REDACTED] | I lead on DG ECJ, DG HSC & DG ODO

Scottish Ministers, Special Advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot



Scottish Government
Riaghaltas na h-Alba
gov.scot



I'm dyslexic.
Thank you for
your consideration.
Celebrate neurodiversity!



From: Rogers D (David) (Constitution and Cabinet Director)
Sent: 14 January 2021 08:28
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; French C (Craig) <Craig.French@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>
Subject: RE: RE FAO DFM- correspondence from James Hamilton: NEXT STEPS

[REDACTED] – thank you. I will pass on a copy to Mr Hamilton. David

David Rogers

Director, Constitution and Cabinet | The Scottish Government | 4 N.04, St Andrew's House, Edinburgh, EH1 3DG | T: [REDACTED] | E: david.rogers@gov.scot

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 13 January 2021 19:27
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; French C (Craig) <Craig.French@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>
Subject: RE: RE FAO DFM- correspondence from James Hamilton: NEXT STEPS

Hi David,

We spoke and you confirmed the letter was ready to issue. I attach a copy of that email for your records.

Many thanks for your help tonight.

[REDACTED]

[REDACTED] | Deputy Private Secretary to John Swinney MSP | Deputy First Minister of Scotland and Cabinet Secretary for Education & Skills | Scottish Government | St Andrew's House | Edinburgh | EH1 3DG | Tel: [REDACTED] | E: DFMCSE@gov.scot

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From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 13 January 2021 19:16
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; French C (Craig) <Craig.French@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>
Subject: RE: RE FAO DFM- correspondence from James Hamilton: NEXT STEPS

David

DFM is content with this version of the letter and said it can now issue. Helpful if you could confirm that the letter is good to go now and I will issue that to MSPs.

Thanks

[REDACTED]

[REDACTED] | Deputy Private Secretary to John Swinney MSP | Deputy First Minister of Scotland and Cabinet Secretary for Education & Skills | Scottish Government | St Andrew's House | Edinburgh | EH1 3DG | Tel: [REDACTED] | E: DFMCSE@gov.scot

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From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 13 January 2021 19:09
To: Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; French C (Craig) <Craig.French@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>
Subject: RE: RE FAO DFM- correspondence from James Hamilton: NEXT STEPS

Thanks David – I am just double checking DFM is okay with the contents of this one then can get that issued shortly too, will check in with you before doing so.

I attach a copy of the email I sent to committee for your records. I have also shared Mr Hamilton's letter with the First Minister as per DFM's instructions.

Many thanks

[REDACTED]

[REDACTED] | Deputy Private Secretary to John Swinney MSP | Deputy First Minister of Scotland and Cabinet Secretary for Education & Skills | Scottish Government | St Andrew's House | Edinburgh | EH1 3DG | Tel: [REDACTED] | E: DFMCSE@gov.scot

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From: Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>
Sent: 13 January 2021 19:07
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; French C (Craig) <Craig.French@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Rennick NS (Neil) <Neil.Rennick@gov.scot>
Subject: RE: RE FAO DFM- correspondence from James Hamilton: NEXT STEPS

[REDACTED] – here is the revised draft for step 3. I have made very minor adjustments to the second page.

David

David Rogers

Director, Constitution and Cabinet | The Scottish Government | 4 N.04, St Andrew's House, Edinburgh, EH1 3DG | T: [REDACTED] | E: david.rogers@gov.scot

From: Rogers D (David) (Constitution and Cabinet Director)
Sent: 13 January 2021 18:57
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Cc: Permanent Secretary <PermanentSecretary@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; French C (Craig) <Craig.French@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Rennick NS (Neil) <Neil.Rennick@gov.scot>
Subject: RE: RE FAO DFM- correspondence from James Hamilton: NEXT STEPS

[REDACTED] – thank you.

The letter copied to us by Mr Hamilton has nothing new or inconsistent with his letter to DFM so yes please proceed with step 1.

I will send a slightly revised draft for step 3 in a little while.

David Rogers

From: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)> On Behalf Of Deputy First Minister and Cabinet Secretary for Education and Skills

Sent: 13 January 2021 18:50

To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>

Cc: Permanent Secretary <PermanentSecretary@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; French C (Craig) <Craig.French@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Rennick NS (Neil) <Neil.Rennick@gov.scot>

Subject: RE: RE FAO DFM- correspondence from James Hamilton: NEXT STEPS

Hi David

I have attached James Hamilton's letter here. I will get the letter to committee teed up right now, but for absolute clarity would be grateful if you could confirm that it should issue ASAP?

Thanks

[REDACTED]

[REDACTED] | Deputy Private Secretary to John Swinney MSP | Deputy First Minister of Scotland and Cabinet Secretary for Education & Skills | Scottish Government | St Andrew's House | Edinburgh | EH1 3DG | Tel: [REDACTED] E: DFMCSE@gov.scot

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From: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)> On Behalf Of Deputy First Minister and Cabinet Secretary for Education and Skills

Sent: 13 January 2021 18:45

To: Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>

Cc: Permanent Secretary <PermanentSecretary@gov.scot>; Fraser L (Lesley) <Lesley.Fraser@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; French C (Craig) <Craig.French@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Rennick NS (Neil) <Neil.Rennick@gov.scot>

Subject: RE: RE FAO DFM- correspondence from James Hamilton: NEXT STEPS

Hi David,

As discussed, DFM is content with all of this and said the timing you set out should be followed and we should check the contents of Mr Hamilton's reply. He is also happy with the media lines.

I will await Mr Hamilton's letter and the go ahead from you before auctioning step 1.

Thanks

[REDACTED]

[REDACTED] | Deputy Private Secretary to John Swinney MSP | Deputy First Minister of Scotland and Cabinet Secretary for Education & Skills | Scottish Government | St Andrew's House | Edinburgh | EH1 3DG | [REDACTED] | E: DFMCSE@gov.scot

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From: Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>

Sent: 13 January 2021 18:24

To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>

Cc: Permanent Secretary <PermanentSecretary@gov.scot>; Fraser L (Lesley)

<Lesley.Fraser@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; [REDACTED]

<[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; French C (Craig) <Craig.French@gov.scot>; McAllister C (Colin)

<Colin.McAllister@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Rennick NS

(Neil) <Neil.Rennick@gov.scot>

Subject: RE: RE FAO DFM- correspondence from James Hamilton: NEXT STEPS

PS/Deputy First Minister

Copy to Permanent Secretary, Lesley Fraser, Neil Rennick, Craig French, Gavin Henderson, [REDACTED], Colin McAllister

MINISTERIAL CODE REFERRAL: CORRESPONDENCE FROM JAMES HAMILTON AND FROM ALEX COLE-HAMILTON AND OTHERS: NEXT STEPS

I am expecting Mr Hamilton to reply this evening to the group of MSPs that had written to him. He will send on a copy of that letter to us.

As discussed with Craig, I propose the following next steps once we have received that letter:

1. DFM should send a copy of exchange of letters with Mr Hamilton to the convenor of the Harassment Committee, copied to SPICE for publication. I attach a draft and PDF copies of the correspondence to be attached. Mr Hamilton has confirmed to us that he has no objections to publication once he has written to the MSPs. (The letter should be emailed to Ms Fabiani c/o the

committee clerk on SGHHC@parliament.scot and copied to SPICE on CollectionsTeam@parliament.scot FAO [REDACTED].)

2. Copies of Mr Hamilton's letter to DFM can then be provided in response to media enquiries.
3. DFM may wish also to reply this evening to the group of MSPs in response to their letter of Monday (attached). I attach a draft reply, but I would like to double-check that against Mr Hamilton's letter to them once we see it.

We propose the following line to be used in response to media enquiries:

Mr Hamilton has informed us of his intention to address in his report a number of points that have been raised with him by some MSPs and by the former First Minister. That is entirely within his existing remit. As the Deputy First Minister advised Parliament last year, in response to a parliamentary question, Mr Hamilton is free to consider evidence on any aspect of the Ministerial Code that he deems to be relevant.

David Rogers

David Rogers

Director, Constitution and Cabinet | The Scottish Government | 4 N.04, St Andrew's House, Edinburgh, EH1 3DG | T: [REDACTED] | E: david.rogers@gov.scot

From: Rogers D (David) (Constitution and Cabinet Director)

Sent: 13 January 2021 09:19

To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>

Cc: Permanent Secretary <PermanentSecretary@gov.scot>; Fraser L (Lesley)

<Lesley.Fraser@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>; Henderson G (Gavin)

<Gavin.Henderson@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; McAllister C (Colin)

<Colin.McAllister@gov.scot>

Subject: RE FAO DFM- correspondence from James Hamilton

Deputy First Minister

Copy to Permanent Secretary, Lesley Fraser, Neil Rennick, Craig French, Gavin Henderson, [REDACTED], Colin McAllister

MINISTERIAL CODE REFERRAL: CORRESPONDENCE FROM JAMES HAMILTON AND FROM ALEX COLE HAMILTON AND OTHERS

Mr Hamilton has written (as attached) to inform you about two matters that he intends to cover in his report:

- reporting of meetings by the First Minister to the Parliament, and in particular whether she broke Section 1(c) of the Ministerial Code in relation to a meeting with Geoff Aberdein; and

- allegations made by Mr Salmond concerning whether or not the First Minister should have intervened to arrange a process of mediation.

His letter offers you the opportunity to make any observations before he replies to a group of MSPs including Alex Cole-Hamilton who have written to him asking whether he considers his remit to include the first matter.

Separately Mr Cole-Hamilton and (we assume) the same group of MSPs has written (also as attached) asking you to “widen” Mr Hamilton’s remit to include the first matters.

Draft reply

I attach a draft reply to Mr Hamilton that, if you agree, could issue this morning.

Informing the First Minister

If you are content to write to Mr Hamilton in these terms, we suggest that you inform the First Minister of the correspondence given the on-going political debate about the scope of Mr Hamilton’s remit. I attach a draft minute from you to the First Minister to issue once you have replied to Mr Hamilton.

Briefing for FMQs

The following could then be included in FMQ briefing for today.

My self-referral under the Ministerial Code is under way

- The remit of Mr Hamilton's work is well established.
- As the Deputy First Minister and I both advised Parliament last year, Mr Hamilton is free to consider evidence on any aspect of the Ministerial Code that he deems to be relevant.
- I am recused from this process, but the DFM has made me aware that Mr Hamilton himself has confirmed that his existing remit covers my reporting of meetings to the parliament and the allegations made by the former First Minister about mediation. There is therefore no question here. It is my expectation that he will consider those matters.

We will provide a draft reply to Mr Cole-Hamilton and others separately.

David Rogers

David Rogers

Director, Constitution and Cabinet | The Scottish Government | 4 N.04, St Andrew's House, Edinburgh, EH1 3DG | T: [REDACTED] | E: david.rogers@gov.scot

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 12 January 2021 12:51
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>
Cc: McAllister C (Colin) <Colin.McAllister@gov.scot>
Subject: RE: FAO DFM- correspondence from James Hamilton

Now with attachment

From: [REDACTED] <[REDACTED]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 12 January 2021 12:46
To: [REDACTED] <[REDACTED]@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>
Cc: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>
Subject: RE: FAO DFM- correspondence from James Hamilton

Hi David and [REDACTED]

Please see letter we received this morning from James Hamilton.

I would appreciate some advice on this.

Thanks

[REDACTED]

[REDACTED] | Interim Private Secretary to John Swinney MSP, Deputy First Minister and Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot | Tel: [REDACTED] | Email: DFMCSE@gov.scot

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From: [REDACTED] <[REDACTED]@gov.scot>
Sent: 12 January 2021 10:30
To: Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>
Subject: FAO DFM- correspondence from James Hamilton

Dear Deputy First Minister,

Please see attached correspondence, sent on behalf of James Hamilton.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code | Please contact me on
Skype or on [REDACTED]

From: Jennifer Dunn <jennifer.dunn@advocates.org.uk>

Sent: 14 October 2020 10:42

To: [REDACTED] <[REDACTED]@gov.scot>

Subject: RE: James Hamilton- Ministerial code referral

Dear [REDACTED]

Thank you for your email. Can I clarify one point with you before I speak to Douglas. I note from the attachment that '*appointment as an independent advisor does not attract payment*'. Is that referring to Mr Ross not being paid for any legal advice he gives here or to something else? Many thanks.

Kind Regards

Jennifer

Jennifer Dunn | Deputy Advocates' Clerk | Ampersand Advocates | [REDACTED]

(forwarding to: [REDACTED]) | ampersandadvocates.com

COVID-19 – Ampersand remains open for business but with some changes to how we work. For the latest updates, please see our website [here](#).

From: [REDACTED] <[REDACTED]@gov.scot>

Sent: 14 October 2020 10:12

To: Jennifer Dunn

Subject: James Hamilton- Ministerial code referral

Dear Jennifer,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Happy to provide more information if that would be helpful.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code
| Please contact me on Skype or on [REDACTED].

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From: James Hamilton [REDACTED]
Sent: 14 October 2020 15:11
To: [REDACTED]@gov.scot>
Subject: Re: FW: James Hamilton- Ministerial code referral

15.30 is perfect thanks!

James

On Wed, 14 Oct 2020 at 14:48, James Hamilton [REDACTED] wrote:
Hi [REDACTED]

Maybe we could have a brief word?

James

On Wed 14 Oct 2020 at 13:07, wrote:
Hi James,

Please see below on Mr Ross' availability- grateful for your thoughts on whether this timing would work. If you want to discuss with Mr Ross his mobile number is below.

Best wishes,

[REDACTED]

From: [REDACTED]@advocates.org.uk>
Sent: 14 October 2020 11:09
To: [REDACTED]
Subject: RE: James Hamilton- Ministerial code referral

Hi [REDACTED]

Thank you for confirming.

I have spoken with Mr Ross who would very much like to assist Mr Hamilton. As I mentioned on the phone he is fully engaged on a case with looming deadlines at the moment so has little to no time available between now and 30th October. Thereafter, beside the last week of November (w/c 23/11) where he is not available, he would have some time to assist. I'm not sure if that is helpful to Mr Hamilton but if you could confirm either way I would be grateful.

If Mr Hamilton would like to give Mr Ross a call he would be happy to speak to him. His mobile number is [REDACTED]

Kind Regards

[REDACTED]

[REDACTED] | Deputy Advocates' Clerk | Ampersand Advocates | [REDACTED]
(forwarding to: [REDACTED] | ampersandadvocates.com)

(my working days are Mondays, Tuesdays and Wednesdays 9am to 5pm)

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RE: Line to clear - Lib Dem - FM inquiry - PA

From: Deputy First Minister and Cabinet Secretary for Education and Skills <dfmcse@gov.scot>
To: [REDACTED] <[REDACTED]@gov.scot>, Deputy First Minister and Cabinet Secretary for Education and Skills <dfmcse@gov.scot>
Cc: [REDACTED] <[REDACTED]@gov.scot>, Rogers D (David) (Constitution and Cabinet Director) <david.rogers@gov.scot>, Hogg KJ (Kenneth) <kenneth.hogg@gov.scot>, Fraser L (Lesley) <lesley.fraser@gov.scot>, Bruce A (Andrew) <andrew.bruce@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, French C (Craig) <craig.french@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, News Desk <newsdesk@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, Grant J (Julie) <julie.grant@gov.scot>, Richards N (Nicola) <nicola.richards@gov.scot>, Carey M (Michael) <michael.carey@gov.scot>, [REDACTED] Hynd JS (James) <james.hynd@gov.scot>, Ingebrigtsen R (Ross) <ross.ingebrigtsen@gov.scot>, Nicolson S (Stuart) Special Adviser <stuart.nicolson@gov.scot>
Date: Wed, 14 Oct 2020 09:54:05 +0000

[REDACTED]
DFM is content to issue.

Kind Regards
[REDACTED]
[REDACTED]

Deputy Private Secretary to John Swinney MSP, Deputy First Minister and Cabinet Secretary for Education and Skills | The Scottish Government | Web: www.gov.scot | Email: DFMCSE@gov.scot |

5N.07 St Andrew's House | Regent Road | Edinburgh | EH1 3DG

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From: [REDACTED]
Sent: 14 October 2020 10:44
To: Deputy First Minister and Cabinet Secretary for Education and Skills
Cc: [REDACTED] Rogers D (David) (Constitution and Cabinet Director) ; Hogg KJ (Kenneth) ; Fraser L (Lesley) ; Bruce A (Andrew) ; [REDACTED] French C (Craig) ; [REDACTED] News Desk ; [REDACTED] Grant J (Julie) ; Richards N (Nicola) ; Carey M (Michael) ; [REDACTED] Hynd JS (James) ; Ingebrigtsen R (Ross) ; Nicolson S (Stuart) Special Adviser
Subject: Line to clear - Lib Dem - FM inquiry - PA

Hi [REDACTED]

PA are asking us to respond to an Evening News article from Alex Cole-Hamilton saying FM should resign if she mislead parliament over the harassment inquiry investigation (attached and text below).

I have discussed with spads and we have edited the previously cleared line responding to his NR about PQs lodged on the subject. Please could you confirm the DFM is happy for this to issue?

A Scottish Government spokesperson said:

"The First Minister stands by what she has said to Parliament and by her written evidence to the committee, and looks forward to answering questions at the committee when they decide to ask her to appear."

Article

The phrase "I don't recall" was used a total of 88 times by Lieutenant Colonel Oliver North in sworn testimony to the Joint- Congressional Hearings on the Iran-Contra Scandal in 1987.

Sudden memory loss is one way of avoiding awkward questions and is infuriating to those charged with finding the truth. I should know. We've had our fair share of rapid onset amnesia from witnesses to the 'Salmond Inquiry'.

In the seven or so weeks we've been taking evidence, we've had some quite startling, 'Oliver North' moments. The head of the civil service couldn't remember if Alex Salmond had ever shouted at her while he was First Minister (not something I'd imagine you'd easily forget, but you'd also be clear if it had never happened).

Then there was the HR director who couldn't recall receiving a text from her boss saying "we may have lost the battle but we'll win the war" after Salmond won his judicial review against the Government - despite it being widely reported in the press as suggesting a conspiracy. But by far the most startling problem with recollection came from the First Minister herself.

Prior to the criminal trial that resulted in Salmond's acquittal on charges of sexual misconduct and attempted rape, Nicola Sturgeon had maintained that the first she'd learned of the official government investigation into two of these complaints was from Salmond himself at a meeting at her home on 2 April 2018. Only after court testimony revealed she had discussed the allegations five days earlier at a meeting with Salmond's most trusted adviser, did she change her story.

Her written evidence to the committee cites memory-loss: "I had forgotten that this encounter had taken place." She explains that it had been "in the midst of a busy day".

I struggle with this account.

Many times, the First Minister has defined her relationship with Salmond as "the most important outside of her family - a mentor of 30 years". Think of anyone that important to you and now imagine being told for the first time that they were under investigation for sexual assault. I doubt it's a meeting you'd forget.

When the allegations first came to light in 2018, Andrew Marr asked the FM on camera - "had you heard stories about him before it broke in the press?" To which she replied, unequivocally "absolutely not".

Yet her written evidence to our committee states she had been told in 2017 about an alleged incident at Edinburgh Airport which Salmond had denied.

She states that it left her with a "lingering concern" that other allegations could arise. All of this suggests the First Minister may not have been entirely straight with her answers to parliament and that matters.

The remit of her self-referral for investigation over a potential breach of the Ministerial Code is currently tasked to look only at her meetings with Salmond. That's why I've asked for the remit to be expanded to look at her actions under Section 1(c) of the code, to ascertain whether she has misled parliament. If she has, then that's a resignation matter.

If the remit is expanded and it should be, the First Minister will need more than the old Olly North defence of "I don't recall". Alex Cole-Hamilton is Liberal Democrat MSP for Edinburgh Western

Thanks



From: [REDACTED]
Sent: 14 December 2020 16:42
To: 'James Hamilton' [REDACTED]
Subject: Written submissions

Hi James,

Please see attached summary document, which sets out which submissions have been received, and either includes the submission of sets out which attachment it is. Where a document is password protected the password is the same as previously used.

Best wishes,

[REDACTED]

Letter from FM to Permanent Secretary

STRICTLY PRIVATE & CONFIDENTIAL

6 June 2018

For the attention of the Permanent Secretary

On Monday 2 April I was informed by Alex Salmond that you were investigating a complaint from within the civil service about his conduct while First Minister and that the complaint relates to alleged conduct of a sexual nature.

It was clear, from what he told me, that the complaint was being investigated under the guidance put in place towards the end of last year as part of the Scottish Government's response to the public discussion around sexual harassment cases, and which contained provisions for the handling of any complaints against former Ministers. I recalled and explained that as First Minister I had no role in this process, and that I would be advised of a complaint against a former Minister only when you have concluded your investigation.

The former First Minister (FFM) contacted me again on Monday 23 April to say that he intended to propose mediation.

I told the FFM on both occasions that it would not be appropriate for me to seek to intervene in the process in any way and I did not do so.

[REDACTED]

After careful consideration, I decided not to inform you of these approaches as I did not want there to be any suggestion that I was seeking to intervene in the process.

However, I have now had a further approach from the FFM and, given its nature and that it represents a potential challenge to the process, I have decided that I should make you aware of it.

The FFM has told me that he considers the process being followed by the Scottish Government to be unlawful, that he has legal advice to the effect that he would be successful in an application for Judicial Review of the process, and that if any finding is made against him, it is his intention to lodge an application for Judicial Review to seek to have the process declared unlawful.

I want to be very clear that my purpose sending this note is not to ask you to cease the investigation or to influence its course in any way – it is to be transparent with you about my knowledge of a potential challenge to the process. You and I have discussed on many occasions the importance of a zero tolerance approach to sexual harassment within the Scottish Government and the importance to building confidence in such an approach of taking such complaints seriously and ensuring proper investigation. I am clear that the seniority, political affiliation or relationship to me or my government of any person subject to a complaint should have no bearing on how it's handled. To that end, you have my support in taking whatever steps you consider necessary and appropriate to investigate any complaint about inappropriate conduct within the Scottish Government.

It remains my view that it would be inappropriate for us to discuss the substance of the investigation prior to its conclusion.

I intend to inform the FFM that I have told you about his approach to me and to advise him again that it would not be appropriate for me to intervene in the process.

Finally, I am also mindful of the public interest considerations that arise when allegations of this nature are made. At this stage, however, it is my view that the interest of ensuring that the conduct of the investigation is fair to all parties and respects the confidentiality of the complainant(s) is the priority.

NICOLA STURGEON

Response from Permanent Secretary to FM

STRICTLY PRIVATE & CONFIDENTIAL

7 JUNE 2018

For the attention of the First Minister

I confirm receipt of your note of 6 June 2018, the terms of which I have noted.

LESLIE EVANS

Permanent Secretary

Note from Permanent Secretary to FM

First Minister

Strictly private and confidential

Your note of 6 June informed me that the former First Minister, Alex Salmond had made you aware that an investigation was being conducted by the civil service into two formal complaints by civil servants about his conduct in office. [Redacted]

[Redacted]

[Redacted]

In line with the Procedure, I will report the outcome of the investigation and decisions about the next steps to be taken by the Scottish Government to you once I have informed the complainers and former First Minister of my conclusions.

Leslie Evans 17

August 2018

9 October 2020

Dear Mr Hamilton

SCOTTISH MINISTERIAL CODE: SELF REFERRAL

Thank you for your letter of 8 September. Please find enclosed the following:

Annex A: I have provided, as requested, a general statement about my actions and involvement in the matters covered by your remit. Please note that I have also provided this statement to the Scottish Parliament Committee on the Scottish Government Handling of Harassment Complaints (hereinafter referred to as “the Committee”).

Annex B: I have enclosed a transcript of WhatsApp messages between myself and Alex Salmond. This information has also been provided to the Committee and I was advised by the clerks that Mr Salmond has asserted legal privilege over the message from him to me dated 16 July 2018 and asked for it to be redacted.

Annex C: A copy of my covering letter to the Committee dated 4 August 2020. The letter is enclosed for completeness. It covers matters that you may consider go beyond your remit but also some information that appears to me to fall within it and which you may find helpful.

As you may be aware, my submission to the Committee has now been published - however, I thought it would be helpful to attach it here for ease of reference.

I will now turn to the specific questions in your letter. Most of them are addressed in the Annexes attached - however, where it seems you are requesting additional information or that I can usefully expand on any points, I will do so below.

Please note that in the Annexes detailed above and in the answers below, I have taken care not to provide any information that would seem to me to risk breaching the order of the High Court in *HMA v AEA Salmond*. If, as a result, it appears to you that there are questions I am not answering directly, I would be happy to discuss this further with you.

Question 1

All of my contacts with Mr Salmond between 16 January and 18 July 2018 are detailed in Annex A. You will note from that account that after my final conversation with him on 18 July, he sent me two further messages - on 18 and 20 July. These are included in Annex B. I did not respond to these messages.

I can confirm that I have had no contact with Mr Salmond - direct or indirect - since.

Question 2

I met with Geoff Aberdein, former Chief of Staff to Mr Salmond, in my office in Parliament on 29 March 2018. The circumstances and nature of this meeting are set out in Annex A.

He was mainly, as I recall now, seeking to persuade me to meet with Mr Salmond. I think the assumption in my mind at the time of this discussion was that any issues of alleged sexual conduct against Mr Salmond would be related to the matter raised by Sky News in the query a

few months earlier. [REDACTED]

this

would have meant nothing to me as I had not been aware of any such instance. The reference however makes sense in light of what Mr Salmond told me on 2 April.

As I set out in Annex A, I had forgotten about this encounter until I was reminded of it in early 2019. Since the publication of my evidence to the Committee, it has been asked of me how it is possible that I could have forgotten such an encounter.

It is obviously not possible for anyone to be certain of the reasons for forgetting an event. But the reasons I think this meeting was not engraved in my mind (beyond the fact that it was an unscheduled meeting in the middle of a busy day) are alluded to in my Committee submission, and it may be helpful for me to expand.

Firstly, by the time I met with Mr Aberdein, I already had what I describe as a 'lingering concern' that allegations may emerge about Mr Salmond. This was as a result of the Sky media query in November 2017. In other words, the meeting was not the first time possible allegations about Mr Salmond had been raised with me - had it been, my memory may have been more vivid. But the second, and perhaps more relevant factor is that my meeting with Mr Salmond himself a few days later on 2 April was so significant. It was then that he told me the details of the actual complaints against him and his response to them. I think it is because this was such a shock to me that the earlier meeting was overwritten in my mind.

Question 3

There were no meetings - other than those I have declared - between anyone representing me and Mr Salmond.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Question 4

A summary of the purpose of, and participation in, each of the contacts is provided in Annex A. The messages at Annex B also include relevant detail. I expand on the purpose of and reasons for each of the contacts in my response to Question 5.

However, I include under this question detail of the following: who initiated each meeting; how long (as far as I can recall) each contact lasted; and who was present.

I did not make a record of any of the contacts. However, I gave a verbal account of each of them to my Chief of Staff.

2 April

This meeting was initiated by/on behalf of Mr Salmond. The others present in my home throughout - though only involved in part of the discussion - were my Chief of Staff, Geoff Aberdein and Duncan Hamilton (who I believe was acting in a legal capacity for Mr Salmond). I had not been aware in advance that Mr Hamilton would be in attendance. My recollection is that Mr Salmond, Mr Aberdein and Mr Hamilton were present in my home for an hour or two. My Chief of Staff was there longer as we had other matters to discuss.

At the meeting, Mr Salmond shared the details of the complaints with me and gave me his response to them - part of this was that he had previously apologised for an aspect of one of them. He also told me that he intended to seek a process of mediation with the complainers. As it was clear to me then that these were complaints under the Scottish Government's Procedure, I knew I had no role and would not be made aware by the Permanent Secretary until any investigation concluded. I was clear to Mr Salmond that I would not intervene.

23 April

The call was initiated by Mr Salmond. My Chief of Staff was in the room with me during this call but not on the line. I think it lasted around 10/15 minutes in total.

7 June

Mr Salmond requested this meeting. I initially declined but, for reasons set out below, later agreed to it. Mr Salmond and I were the only attendees. My Chief of Staff was aware of the meeting but not present - though she did interrupt to bring it to an end as I had other matters to attend to.

14 July

This meeting should probably be described, for the following reasons, as initiated partly by Mr Salmond and partly by [REDACTED] me. [REDACTED]

Mr Salmond and I were the only attendees at the meeting on 14 July. I think the meeting lasted around an hour.

18 July

This call was initiated by me. No one else was on the line or present during it. It lasted around 10/15 minutes.

Question 5

After the meeting of 2 April, it was not my intention to meet with or speak to Mr Salmond about the matter again.

My reason for agreeing to the call on 23 April is not dissimilar to the reasons I agreed to the 2 April meeting.

When he contacted me on 22 April, I again thought it possible that he was intending to respond in a way that would make the matter public. To explain, it would have been very much in character for him to have made a bold public declaration about the complaints made against him in order to, as he would see it, 'take control of the story'. This could have been along the lines of 'I'm standing down from SNP while I fight to clear my name' or even a partial mea culpa 'I've made mistakes, but I'm not guilty of what I am accused of'. Back then, this is what I assumed he would eventually do.

As Party Leader, I was keen not to be blindsided by such a development, and that is why I agreed to the call.

However, on the call he asked me to advise the Permanent Secretary that I knew of the investigation and persuade her to accede to his request for mediation. I told him emphatically that I would not do so.

When he contacted me on 31 May seeking a meeting, I initially resisted. I still thought it possible that he might 'go public', but the content of our conversation on 23 April and the tenor of his messages to me on 31 May/1 June made me think this was unlikely at that stage.

Therefore, my intention was to decline this meeting request.

However, the tone and content of his message of 3 June changed my view of the matter. The tone of it seemed almost intimidatory and the content made clear he was considering legal action. As a result, I decided to inform the Permanent Secretary.

This was not a decision I took lightly - as I set out in my general statement and below, my decision not to inform the Permanent Secretary of my knowledge, also not taken lightly, had been about protecting the integrity and confidentiality of the process.

I decided to make it known to him that I had informed the Permanent Secretary, and make clear again that I would not intervene as he wanted me to. I indicated to the Permanent Secretary in my letter to her that I intended to have such a conversation with him.

I felt it important to do this, firstly, because Mr Salmond can be persistent and will often interpret conversations or messages in a way that best suit his interests. I wanted to leave no room for misinterpretation.

Also, I believed it highly likely that our paths would cross towards the end of that week at the SNP Conference (as it turned out, I don't think he did attend), and I considered that speaking to him in a planned way was better than him trying to 'corner' me.

As for the content of the meeting on 7 June, I advised him of the action I had taken and made clear again that I was not prepared to intervene in the process. He wanted to give me a document to take away which I believe was a legal opinion he had obtained. I declined to do so. He stated his intention to take legal action if necessary. I expressed an opinion that given the seriousness of the complaints he should consider addressing the substance of them.

By the time of the meeting on 14 July, I was again concerned that the matter might become public. As set out above, I always thought it possible, even likely, that this was the course Mr

Salmond would ultimately take. And had he taken legal action - which I knew he was considering - this could also have put matters into the public domain.

At that meeting, he told me he was asking the Scottish Government to agree a process of arbitration. For reason that I didn't understand then - and don't understand now - he believed I was blocking this. I told him that wasn't so as I had no involvement in the process.

I suggested again that he should address the substance of the complaints rather than simply focusing on procedure.

Although he indicated he would reflect on this, he was focused on his request for arbitration and seeming unwilling to accept that I would not put pressure on the Permanent Secretary to accede to it.

By this time, it was clear that my relationship with Mr Salmond was breaking down. He was clearly upset and angry that I was not assisting him to achieve the outcome he wanted.

I was also upset with him. The nature of the complaints against him and the account he had given me of one of them had badly shaken my faith in him.

However, in spite of that, I did not want our relationship to break down completely. He had been my friend and colleague for 30 years.

It was this that prompted my call to him on 18 July. I wanted to draw a line under our contact about the matter. I was also about to take a short summer break and I didn't want it interrupted by contact from him. However, I think I was also hoping to make him understand and accept why I couldn't and wouldn't intervene.

Question 6

I advised the Permanent Secretary of the meeting on 2 April and the call on 23 April, in my letter to her of 6 June 2018 (I do not personally hold a copy of this letter - it is held by the Scottish Government and I understand that it has been provided to you by the Permanent Secretary).

My letter indicated that I intended to speak to Mr Salmond again, which I did on 7 June. I later told the Permanent Secretary that I had done so, though we did not have any detailed discussion about it.

I advised her on 16 July of my meeting with Mr Salmond on 14 July and made her aware of his belief that I was blocking arbitration. I made clear to her again that I had no view on the matter and the decision was hers alone. I also told her - I think on my return from annual leave - that I had spoken to him on the phone on 18 July, but I did not discuss the details.

The Permanent Secretary wrote to me on 17 August 2018 informing me that she intended to seek [REDACTED].

She then wrote to me on 22 August 2018 - in line with the Procedure - informing me that she had concluded the investigation, upheld certain complaints and referred the matter to the police.

I assume the letters of 17 and 22 August will be provided to you by the Permanent Secretary if required.

At every stage of my contacts with Mr Salmond I considered the obligations of the Ministerial Code - and my obligations as First Minister more generally. I gave particular consideration to the Code after the meeting on 2 April and discussed this with my Chief of Staff.

It seemed to me then - and I believe this to be the case now - that the Code does not envisage or provide for the particular circumstances of the situation I was faced with. In truth, it felt to me that I was in a Catch 22 situation - had I relied on the relevant parts of the Code, I would have compromised the confidentiality and independence of the process. And if I decided - as I did because I consider it to be the case - that the Code does not provide for the circumstances of this situation, I could find myself accused of breach, as indeed has happened. The judgment I made was that the integrity, independence and confidentiality of the process was paramount.

To explain more fully, the relevant sections of the Ministerial Code, which I consider to be sections 4.22 and 4.23, seek to guard against undisclosed outside influence on decisions that Ministers are involved in and likely to have an influence on. It seemed to me that this was the opposite situation. This was a decision I was excluded from - indeed not meant to know about at all - and it seemed to me that the risk of inadvertently and unintentionally influencing it would arise if those undertaking the investigation became aware of my knowledge of it.

Further, according to my reading of these sections of the Code, my contact with Alex Salmond - once notified - would have had to be made public. There would have been media interest had a meeting between me and Alex Salmond appeared in my published diary, and it was not clear to me how I could have addressed the questions that would have been asked, without in the process compromising the confidentiality of the process.

My judgment, therefore, was that the best way to protect the process - in the interests of the complainers, the government and Mr Salmond himself, was not to make my knowledge of it known. This judgment changed when I had reason to believe that legal action against the government was being considered.

Question 7

I discussed matters with my Chief of Staff throughout - in particular in relation to the Ministerial Code. I did not ask the Permanent Secretary, any civil servant or other special adviser for advice. I would point out that this was in the context of seeking to protect the confidentiality of the process.

I hope I have addressed all your questions. I am, of course, happy to expand on any point should you find it helpful and to discuss all matters further in interview with you.

Your sincerely

NICOLA STURGEON MSP

ANNEX A

Alex Salmond told me on 2 April 2018 at a meeting at my home that complaints against him were being investigated under the Procedure. At that meeting, he showed me a copy of the letter he had received outlining the detail of the complaints.

As has been reported already, four days earlier - 29 March 2018 - I had spoken with Geoff Aberdein (former Chief of Staff to Alex Salmond) in my office at the Scottish Parliament.

Mr Aberdein was in Parliament to see a former colleague and while there came to see me.

I had forgotten that this encounter had taken place until I was reminded of it in, I think, late January/early February 2019.

For context, I think the meeting took place not long after the weekly session of FMQs and in the midst of a busy day in which I would have been dealing with a multitude of other matters.

However, from what I recall, the discussion covered the fact that Alex Salmond wanted to see me urgently about a serious matter, and I think it did cover the suggestion that the matter might relate to allegations of a sexual nature.

[REDACTED]

The impression I had at this time was that Mr Salmond was in a state of considerable distress, and that he may be considering resigning his party membership.

However, while I suspected the nature of what he wanted to tell me - for reasons set out below - it was Alex Salmond who told me on the 2 April that he was being investigated under the Procedure - and what the detail of the complaints was. It is this meeting - due to the nature of the information shared with me at it - that has always been significant in my mind.

As stated above, I suspected the reason Alex Salmond wanted to see me on April 2 was that he was facing an allegation of sexual misconduct.

Although my contact with Mr Aberdein on 29 March 2018 may have contributed to that suspicion, it was not the only factor.

For example, in early November 2017, the SNP received an enquiry from Sky News about allegations of sexual misconduct on the part of Alex Salmond.

I spoke to Mr Salmond about this allegation at the time. He denied it and, as it happened, Sky did not run a story about it at that time. Since the identity of the individuals was not made known to us and they did not approach the SNP directly, there was no further action that it would have been possible to take.

However, even though he assured me to the contrary, all of the circumstances surrounding this episode left me with a lingering concern that allegations about Mr Salmond could materialise at some stage.

It is reasonable to ask why, if I suspected the nature of what he wanted to speak to me about on 2 April, I nevertheless agreed to the meeting.

The answer is both political and personal.

I thought Mr Salmond may be about to resign from the SNP and that, as a result of this or other aspects of how he intended to handle the matter he was dealing with, the party could have been facing a public/media issue that we would require to respond to.

As Party Leader, I considered it important that I knew if this was in fact the case in order that I could prepare the party to deal with what would have been a significant issue.

There is also the personal aspect. Mr Salmond has been closer to me than probably any other person outside my family for the past 30 years, and I was being told he was very upset and wanted to see me personally.

To return to the meeting on 2 April 2018, although others were present, Mr Salmond initially asked to see me privately.

He advised me that he was being investigated under the Procedure and showed me a copy of the letter he had received.

Notwithstanding the suspicions I had harboured going into this meeting, I was shocked and upset by the reality of what I read.

He gave me his reaction to the complaints - in the main he denied them, though in relation to one matter he said that he had previously apologised and considered it out of order for it to be raised again - and said that it was his intention to seek a process of mediation between himself and the complainers.

It was also clear - contrary to what I had anticipated - that he did not intend to resign his party membership or do anything to make the matter public at that stage.

I made clear to him that I had no role in the process and would not seek to intervene in

it. I took no action as a result of this meeting.

Mr Salmond sent me a message on 22 April 2018 asking to speak to me by phone.

As previously advised to Parliament, I spoke to him by phone on 23 April (the substantive call took place early evening after a call in the morning had to be aborted due to poor signal).

He asked me if I would make the Permanent Secretary aware that I knew about the investigation and encourage her to accept his request for mediation.

I said that I was not willing to do so. A special adviser was in the room with me during this call, though not on the line.

Mr Salmond sent me a message on 31 May 2018 asking to meet. I did not agree to a meeting at that time.

Mr Salmond sent me a further message on 3 June 2018.

Both the tone and content of this message led me to conclude that legal action by Mr Salmond against the Scottish Government was a serious prospect.

I decided that I should make the Permanent Secretary aware of this, and I wrote to her on 6 June 2018.

At this juncture, it may be helpful to briefly set out for the Committee why I had not previously informed the Permanent Secretary of my contact with Alex Salmond or my knowledge of the investigation.

The relevant sections of the Ministerial Code (4.22 and 4.23) seek to guard against undisclosed outside influence on decisions that Ministers are involved in. It seemed to me that this was the opposite situation. This was a decision I was excluded from and it seemed to me that the risk of inadvertently and unintentionally influencing it would arise if those undertaking the investigation were aware of my knowledge of it.

The risk - even if theoretical and subconscious - would be that considerations of what I might think would influence the decisions taken.

Further, according to my reading of these sections of the Code, my contact with Alex Salmond - once notified - would have had to be made public. This could have compromised the confidentiality of the process.

My judgment, therefore, was that the best way to protect the process was not to make my knowledge of it known. This judgment changed when I had reason to believe that legal action against the government was being considered.

Having decided to write to the Permanent Secretary, I agreed to meet Mr Salmond and sent him a message to this effect on 5 June 2018.

The references in this message to 'what I need to do' and 'update' refer to my decision to write to the Permanent Secretary.

I intended to make him aware that I had done so and, in so doing, make clear again that I would not intervene in the process.

My letter to the Permanent Secretary advises her that I intended to do this. As advised to Parliament, this meeting took place in Aberdeen on 7 June 2018. No one else was present at this meeting.

My other reason for wanting to meet with him proactively at this stage was the SNP conference that was about to take place over the following days in Aberdeen. I assumed he would be there (though as it turned out, I don't think he did attend) and I didn't want to be 'cornered' by him during it.

Mr Salmond sent me a further message on 5 July

2018. I did not respond in any way to this message.

The next contact between Mr Salmond and I was on 13 July 2018, which led to our third and final meeting being arranged for 14 July at my home.

By this time, I was again anxious - as Party Leader and from the perspective of preparing my party for any potential public issue - to know whether his handling of the matter meant it was likely to become public in the near future.

It was clear at the meeting that he was still seeking a process of arbitration around his concerns about the procedure.

He had formed a belief that it was me who was blocking arbitration. I told him that was not the case and I was not involved in the decision.

I also suggested to him that given their seriousness, he should engage on the substance of the complaints and not just focus on procedure.

Mr Salmond sent me further messages on 15 and 16 July 2018. The message of 15 July is Mr Salmond's interpretation of me saying that I was not involved in the decision.

On 16 July, I made the Permanent Secretary aware of the meeting on 14 July 2018 and the subsequent messages. I also made her aware of Mr Salmond's belief that I was blocking arbitration.

Given the risk of legal action, I did not want any suggestion that an opinion attributed to me (which I hadn't expressed) was influencing decisions I had no part in.

I reiterated to her that she must reach whatever decisions she considered appropriate and I did not seek to influence her in any way.

As advised to Parliament, I also spoke to Mr Salmond on the phone on 18 July 2018. I wanted to draw a line under our contact. I was also about to take a two day summer break and did not want him trying to contact me during it. I have not spoken to Mr Salmond since.

However, later on 18 July, he sent me a copy of a letter he had received from the Scottish Government. I did not respond to this message.

He sent me a further message on 20 July 2018. Again, I did not respond. I have had no contact with Mr Salmond since.

ANNEX B

[22/04/2018, 20:31:29] Alex Salmond: it would be very helpful if I could call you on WhatsApp 10.30am and 12 noon tomorrow

[22/04/2018, 21:05:25] Nicola Sturgeon: I'll be in the car until 11 on way to Inverness - so 10.30 will be ok. I'll not be free again after that until 12.30/1. There will be others in car so I'll not be able to talk openly...it'll be later in day before I can be in private.

[22/04/2018, 22:03:57] Alex Salmond: In which case I will Phone just after 10.30am with update and we can perhaps speak properly later on.

[31/05/2018, 11:24:01] Alex Salmond: In Glasgow tomorrow - could we meet?

[31/05/2018, 11:39:09] Nicola Sturgeon: Tomorrow's very difficult - is it urgent?

[31/05/2018, 11:45:01] Alex Salmond: Next few days. I could do tomorrow evening or Monday from lunchtime onwards.

[31/05/2018, 11:46:29] Nicola Sturgeon: The only time I could possibly do tomorrow is around 4. Is it about what we spoke about before?

[31/05/2018, 11:56:46] Alex Salmond: Yes

[31/05/2018, 11:56:59] Alex Salmond: 4 is fine - same place?

[31/05/2018, 17:07:08] Nicola Sturgeon: Tomorrow is actually proving tricky given other stuff I've got on. I'm trying to juggle a couple of things - will confirm later/in morning if 4pm possible and if not suggest alternative.

[31/05/2018, 19:23:01] Alex Salmond: I suggest just two of us - I can leave you with some material to digest over weekend - Meeting itself need not take long but tomorrow would be best if poss.

[01/06/2018, 07:51:32] Nicola Sturgeon: Sorry but I just can't do today - I don't have time to get home given other stuff. Happy to speak on phone over weekend and see what else is possible.

[01/06/2018, 09:36:59] Alex Salmond: Phone not appropriate - there is material you need to see and assess privately. Can I come to you Sunday or very first thing Monday?

[01/06/2018, 13:37:54] Nicola Sturgeon: I'm not at home at weekend and in Aberdeen on Monday. In any event, I'd prefer a quick chat first to understand the purpose of giving me material. We've already spoken about why I think me intervening is not right thing to do. Happy to talk on what's app at some point over weekend.

[03/06/2018, 10:15:00] Alex Salmond: My recollection of our Monday 2 April meeting was rather different. You wanted to assist but then decided against an intervention to help resolve the position amicably. Now is different. I was intending to give you sight of the petition for JR drafted by senior counsel. You are a lawyer and can judge for yourself the prospects of success which I am advised are excellent. This will follow ANY adverse finding against me by the PS in a process which is unlawful. You are perfectly entitled to intervene if it is brought to your attention that there is a risk of your Government acting unlawfully in a process of which you had no knowledge. Indeed it could be argued that is your obligation under the Scotland Act is to ensure that all government actions are consistent with Convention

undertakings

The JR will be rough for me since the hearing will almost certainly be made public but at least I will have the opportunity to clear my name and good prospects of doing so - but for the Government? One further thing to consider. Thus far we have been able to confine evidence offered to the general (and mostly ridiculous) matters. This has had the benefit of keeping everything well clear of current administration. When we go to Court we will have to produce evidence to demonstrate prior process (which incidentally the PS has admitted!). If you want to discuss privately then I can come to you in the North East on Monday.]

[05/06/2018, 14:02:58] Nicola Sturgeon: Hi - I have been considering your message and what I need to do in light of it. If you still want to meet, I can do tomorrow evening in Edinburgh and update you then. N

[05/06/2018, 19:24:32] Alex Salmond: Happy to meet - soonest I can get to Edinburgh is around 8.30. I take it this is totally informal, one to one.

[05/06/2018, 19:42:38] Nicola Sturgeon: Ok - happy for it to be one to one - will have to be either parliament or Bute, whatever you prefer. The alternative if its easier is Aberdeen on Thursday night - I'll be there from around 8, staying in hotel somewhere near beach ballroom I think.

[05/06/2018, 20:08:30] Alex Salmond: Yes Thursday much better, thanks. I'll be there for 8.30 to give you time to settle in.

[05/06/2018, 20:12:37] Nicola Sturgeon: Ok. It's the Hilton hotel at the beach.

[05/06/2018, 20:17:58] Alex Salmond: Grand

[07/06/2018, 19:00:28] Nicola Sturgeon: You should go to the Platinum reception at the back of hotel later. There's a private room arranged there for us to meet in.

[07/06/2018, 19:07:45] Alex Salmond: OK thanks. Traffic was bad but now well on the way. Should arrive c 8.40 and will give 5 minute warning on approach.

[07/06/2018, 19:09:23] Nicola Sturgeon: I'm running late too - but should be there just before you

[07/06/2018, 19:14:01] Alex Salmond: OK shall we make it 8.50 so we are not rushing

[07/06/2018, 19:25:49] Nicola Sturgeon: I'm ok for as soon as you get there

[07/06/2018, 19:36:24] Alex Salmond: Grand

[07/06/2018, 20:46:30] Alex Salmond: Now in Aberdeen 5 minutes or so

[05/07/2018, 21:18:40] Alex Salmond: Nicola. I have slept on the content of the latest letter from the PS rejecting arbitration. Two points I want to make to you privately. Firstly, the explanation given in the letter is that arbitration is rejected because the SG is confident in the legality of the process. With respect, that entirely misses the point. The SG may well believe it is lawful. My Senior Counsel believes it is unlawful. That's the whole point of the arbitration.

The legality will have to be resolved either in private (in a confidential and binding arbitration)

or in public at the Court of Session. The SG, and you, have everything to gain from arbitration. If my legal advice is wrong, I will accept that and the current process proceeds. If the SG legal advice is wrong, you discover that without losing in a public court. Adopting an arbitration process also guarantees confidentiality for the complainers, regardless of what happens.

Secondly, the PS has now intimated that an FOI has been submitted. The SG response to that request is of the utmost importance. Confirmation of even the existence of a specific complaint will be sufficient to start a process which leads to the near certainty of these matters becoming public. My legal advice is that a "neither confirm or deny" response which avoids acknowledging the existence of any documents can be issued under section 18 of the FOI Act which covers S38 (1) (b) {personal information}. It is critical that this happens. There remains a way to resolve this but it requires the PS to be encouraged to accept that confidential arbitration offers the best solution and to ensure that the FOI is carefully handled. I hope you will do so but time is now very short.]

[13/07/2018, 11:01:08] Alex Salmond: Grateful for your message [REDACTED] Happy to meet privately. Understand you are away from Monday so given developments presumably this weekend best? I have material which it is important for you to see. I will happily come to you.

[13/07/2018, 11:22:38] Nicola Sturgeon: I'm supposedly on leave from Monday but not going away - I'll be at home so could do next week if that's easier (except Thursday/Friday). Weekend is a bit busy with one thing and another - late tomorrow afternoon probably only time that works. Let me know what you prefer.

[13/07/2018, 14:03:32] Alex Salmond: Great - can we make it tomorrow late afternoon then - I am just rearranging something and will confirm asap.

[13/07/2018, 15:13:10] Alex Salmond: Tomorrow confirmed for late afternoon. - give me your best time and place. Thanks.

[13/07/2018, 15:56:10] Nicola Sturgeon: It'll have to be my house - I should be home by 4 so that's best time. Just so you know, I have to go out again around 6.

[13/07/2018, 15:58:44] Alex Salmond: 4 it is then

[13/07/2018, 15:59:27] Nicola Sturgeon: Ok

[14/07/2018, 15:45:59] Alex Salmond: Ten minutes

away

[15/07/2018, 22:42:44] Alex Salmond: Many thanks for making the time yesterday. I am grateful that you will correct the impression being given that you are against arbitration or that it is somehow against your interests. I know that you need to reflect further on how to progress things beyond that and am not blind to the difficulty of legal advice being suspicious of arbitration. I am genuinely at a loss as to what the downside is for anyone, complainers, SG or me or you. The reasons given to date have been meaningless or more recently just a misrepresentation of your position. If there are good legal reasons then surely they can be set out for you/us. I will wait to hear how you are able to proceed. I am also giving much thought to your advice and thinking deeply about how arbitration on process might open up the space and opportunity to address and resolve the underlying matters, as far as is possible, to everyone's satisfaction.]

[16/07/2018, 14:57:50] Alex Salmond: Just in from Duncan to me - for your eyes only

"Senior counsel for SG has just told us he is going to take instruction direct from PS on the question of what attitude he is to take to arbitration. This is exactly the point at which the FM's

position supporting at least the exploration of arbitration can be most influential. Otherwise we are hitting a wall in discussions. Immediate clarification of her position with the PS is required. As in, immediately.”]

[18/07/2018, 20:50:37] Alex Salmond: T: [REDACTED]
E: perm.sec@gov.scot
Mr Callum Anderson Levy and McRae Pacific House
70 Wellington Street GLASGOW
G2 6UA

Private and Confidential 18 July 2018

Dear Mr Anderson

Thank you for your recent letters, in which you have raised your concern about the fairness of the Scottish Government Procedure. I want, first of all, to assure your client that I am approaching these important issues with the greatest of care and with an open mind. It remains the view of the Scottish Government that our Procedure is fair and legally sound. We have ensured from the outset that your client had every opportunity to provide a statement of his recollection of the events described in the “causes for concern” set out in my letter of 7 March. We granted a number of extensions to the initial deadline for such a statement to be provided. Your client was also offered the opportunity to speak to the Investigating Officer directly but he declined to do so.

Your client has chosen not to provide a substantive response to the complaints made by Ms A and Ms B (causes for concern A – I) although he has made clear his denial that any harassment took place. Your letter of 26 April included quotations “in short none of the allegations are admitted” and “I categorically deny that I have ever harassed any civil servant”.

Although you continue to express concern about the overall fairness and legality of the Procedure your letter of 26 April did include a substantive response to causes for concern J – K. That letter also identified 5 witnesses to be interviewed - limited to those causes for concern only.

Contact information for those witnesses was provided by you on 8 May. Witnesses were interviewed by the Investigating Officer and their statements were finally agreed by all parties by 28 June after a number of postponements and delays.

You have proposed arbitration in relation to the Procedure and explained why you consider it to be appropriate. The Scottish Government has explained in previous letters and in exchanges between legal representatives why we do not agree. However, for completeness and to ensure our position is understood we make the following points.

First, we consider that we have given your client a fair opportunity to address the complaints, and that the procedure which we have followed is a fair one.

- We do not consider that arbitration would be appropriate to the circumstances. This is an investigation of serious complaints made by civil servants involving a former Minister. Submitting the process to an external decision maker would not be appropriate.
- As the decision maker, I have to balance a range of interests, and to ensure a Procedure which is fair both to your client and to the complainers. Arbitration of the SG process would not involve the complainers.
- As decision maker I have a duty to bring the investigation to a conclusion as efficiently and

timeously as possible. Arbitration would cause unavoidable further delay.

- However tightly a remit were drawn, it seems unlikely that it would be possible to separate the procedural points which you have raised from issues of substance or content in a way which would allow those procedural concerns to be addressed.

Your client has provided a substantive response to causes for concern J – K. However, it remains my view that his interests and those of the investigation as a whole would best be served by him providing a substantive response to each of the causes for concern – and it is a matter of regret that he has chosen not to do so.

Consequently I am offering your client, even at this late stage, a final opportunity to provide any further representations about the complaints made by Ms A and Ms B. Given the time that has elapsed since first notifying your client of the investigation you must confirm if your client wishes to take up this opportunity no later than 11 am on 19 July. Any further representations must be received by 3 pm on Friday, 20 July if they are to form part of my consideration.

Should your client choose not to take up this final opportunity I shall proceed to consider the report on the basis of the information he has already provided and will write to you again to inform you of the outcome.

Yours sincerely

LESLIE EVANS

[18/07/2018, 20:52:21] Alex Salmond: As you see the time allowed is tomorrow morning at 11am

[20/07/2018, 22:37:18] Alex Salmond: A full rebuttal of all complaints went in by the deadline today. Let us see how it is judged.

ANNEX C

4 August 2020

Dear Convener

I refer to your letter of 7 July.

Please treat this covering reply and attached annexes as my response to the questions posed in your letter.

With regard to paragraph 5 of Annex B of your letter, noting that “the Committee and all participants must comply with the court order made by the Lord Justice Clerk, Lady Dorrian, on 10 March 2020”, I have excluded from this letter any information that, as far as I am aware, might disclose the identity of any of the complainers in HMA v AEA Salmond.

However, I do not know if my submission would pose a risk in ways I am not aware of, or if other evidence submitted would risk jigsaw identification.

Therefore, prior to publication of all or part of this submission, I would like assurance on the steps the Committee has taken to ensure that nothing in it, either on its own or taken together with anyone else’s evidence, would risk identification.

The Committee previously asked me to retain all information relevant to the Inquiry. I enclose at Annex B a transcript of WhatsApp messages between myself and Alex Salmond. This is the only information I hold relevant to the Committee’s Inquiry.

I have no objection, as regards my own interests, to the publication of these messages in full.

However, I seek an assurance from the Committee that any issues relating to Alex Salmond’s data rights or legal privilege will be properly considered before publication, including whether his consent is required.

Subject to the above, I will be happy to discuss any aspect of my response with the Committee in oral session.

I have structured my response in line with your paragraph headings. Please note that any and all involvement I had in my capacity as First Minister in the Complaints Policy Development, Complaints Handling Procedure and Judicial Review - and any relevant documentation in respect thereof - will be included in the Scottish Government’s submissions to the Committee.

The information I provide in this response relates to my actions in a party/personal capacity. This includes my decision to advise the Permanent Secretary of information I acquired in my party/personal capacity, where I considered that the interests of the Scottish Government required it. I refer in this submission to the letter I wrote to the Permanent Secretary on 6 June 2018. A copy of this should be requested from the Scottish Government.

COMPLAINTS POLICY DEVELOPMENT

As a personal reflection and for context, the development of the Scottish Government’s “Handling of harassment complaints involving current or former Ministers” (hereinafter referred

to as “the Procedure”) took place against the backdrop of the #MeToo movement, which started in late 2017 in the wake of allegations extending back over several years about certain high profile individuals.

The concerns being expressed globally at that time were that too many organisations did not have procedures in place that allowed allegations of sexual harassment to be raised or properly investigated; that women’s voices were often not heard or listened to; that organisations too often closed ranks in defence of men accused of inappropriate behaviour; and that it could be particularly difficult for ‘historic’ allegations to be raised.

The media had also reported concerns about the prevailing culture in Holyrood.

The Scottish Government was just one of many organisations across the globe confronted with these questions at that time, and considering its procedures and culture in light of them.

You will also recall that a Scottish Government minister resigned in early November 2017 over concerns about sexually inappropriate conduct.

As First Minister, I wanted to ensure that the Scottish Government had robust procedures in place to allow any concerns or complaints by those in its employment to be properly and fairly considered, without fear or favour and regardless of the seniority or political affiliation of any individuals who might be the subject of such concerns or complaints.

My role as First Minister in the development of the Procedure will be set out in the Scottish Government’s submission to the Committee.

COMPLAINTS HANDLING PROCEDURE

Any involvement in my role as First Minister will be included in the Scottish Government submission on the handling of the complaints.

I provide further information in a personal/party capacity in Annex A.

JUDICIAL REVIEW

The detail of my involvement in decisions associated with the Judicial Review will be set out in the Scottish Government’s submission to the Committee.

MINISTERIAL CODE

The Committee is aware that I have made a self referral to the independent panel of advisers on the Ministerial Code.

However, I address the requests in this section in Annex A to this letter.

Annex B includes communications in the form of WhatsApp messages between me and Alex Salmond.

My letter to the Permanent Secretary dated 6 June 2018 should be requested from the Scottish Government.

PARTY POLITICAL MATTERS

I had no communication with the SNP relevant to the subject matter of the Committee's inquiry, other than approving the party's public comments after the matter became public in August 2018.

My husband was obviously aware of Mr Salmond's presence in our home on 2 April and 14 July 2018, but he was not present at the meetings and I did not share the detail with him.

As I outline in Annex A, when I agreed to meet with Alex Salmond on 2 April 2018, I believed that what he was about to tell me may require a public response from the SNP. Indeed, I suspected that he may be about to resign from the SNP.

In the event, it was clear to me at the 2 April meeting that his approach to handling the matter was not likely to result in it becoming public at that stage.

Accordingly, there was nothing for me to alert the SNP to, and it was not appropriate for me to disclose the fact or detail of the complaints and investigation under the Procedure.

In relation to ensuring that there is a clear distinction between my role as First Minister and my role in the SNP, I have regard to the terms of both the MSP and Ministerial Codes of Conduct.

My Special Advisers abide by the terms of the Special Advisers' Code of Conduct and the Civil Service Code.

In relation to the question about Scottish Government communication and records, this is covered by Scottish Government procedures on the recording and retention of information.

The SNP communicates with its post holders in the normal ways - including meetings, emails and phone calls.

The safeguard to ensure this is distinct from government communications are the relevant Codes that MSPs, Ministers and Special Advisers are bound by.

To be clear, members of the public often email my SNP or MSP accounts about government business and I forward these to my ministerial private office.

On any other occasions when I email my ministerial private office or special advisers from my personal email - eg with diary queries or information requests - these will be to a Scottish Government email account and retained in line with standard procedures.

And all government business, no matter the platform/medium it is conducted on/through, is subject to Freedom of Information legislation.

CULTURE

I had no general concerns at the time about Scottish Government culture from 2008-14, and certainly not about sexual harassment. However, government is a high pressure environment. Mr Salmond could be challenging to work for and, rightly, he demanded high standards. However, I was present on some occasions when tense situations had to be defused.

Certain matters that I have become aware of through the events of the last couple of years raise - retrospectively - some other concerns.

I have no general concerns about the culture of the Scottish Government now. However, I am not complacent about the potential for instances of inappropriate behavior within a large

organisation. That is why it is important to have clear and robust procedures in place which, subject to any views of this Committee on the Procedure, I believe to be the case.

I have no comment to make on the adequacy of the Civil Service Code. I give some personal reflection on the Ministerial Code in Annex A - however, the adequacy of it is a matter the independent panel will be able to consider.

CONCLUSION

In conclusion, I would like to add the following personal reflections.

The Committee will be considering the Scottish Government's handling of complaints raised under the Procedure. That is, of course, legitimate.

However, the Scottish Government would have had nothing to 'handle' had complaints not been raised about Alex Salmond's conduct.

It was the concerns raised about his conduct - an aspect of which, by his own admission, he apologised for - that gave rise to this matter.

In my view, when these complaints were raised, the Scottish Government had a duty to investigate them and the fact that a mistake was made in the conduct of the investigation does not change that fact. To have swept them under the carpet because of who they related to would have been wrong.

As far as my personal involvement is concerned, over the last couple of years, I have faced accusations of 'conspiring' against Alex Salmond and also of 'colluding' with him. I reject in the strongest possible terms both of these suggestions.

Indeed it seems to me that what some want to present as 'conspiracy' is in actual fact my refusal to 'collude' or 'cover up'.

In what was a very difficult situation - personally, politically and professionally - I tried to do the right thing. Whether I always got it absolutely right is something I still reflect on, and the Committee will consider, but I sought all along to act in good faith and to strike the right balance of judgment given the difficult issues I was confronted with.

In the light of the #MeToo movement, I sought to ensure that the Scottish Government developed a process that allowed allegations of sexual harassment - including allegations of a historic nature - to be fully and fairly considered.

I did not do this *because* I had a concern (as set out in Annex A) that allegations about my predecessor could materialise. But nor did I, in any way, allow such concern to lead me to limit the scope of the procedure.

I agreed to meet a friend of 30 years when I was told he was in distress and wanted to talk to me about a serious matter.

And it is certainly the case that I was anxious to prepare my Party as far as possible for an issue that, at different stages, I thought could be about to become public.

However, I did not seek to prevent or influence the proper consideration of the complaints.

For the sake of the complainers, the Scottish Government and indeed Alex Salmond himself, I acted in a way that I judged would best protect the independence and confidentiality of the investigation.

However, when I became aware of a serious risk of legal action against my government, I felt I had a duty to make the Permanent Secretary aware of it.

My view throughout was that complaints must be properly and fairly considered, no matter who the subject of them might be, or how politically inconvenient the investigations may be.

And that remains my view, even though the circumstances and consequences of this particular investigation have caused me - and others, in many cases to an even greater extent - a great deal of personal anguish, and resulted in the breakdown of a relationship that had been very important to me, politically and personally, for most of my life.

Lastly, since August 2018 I have taken care to say nothing that could compromise other proceedings, including the Committee's inquiry - even though that has meant being unable to say more about my own actions or challenge misrepresentations about them.

Yours Sincerely

NICOLA STURGEON

Covering email:

[REDACTED]

Please find statement attached. I have italicised areas connected to my letter of yesterday, though there are connections with other sections, which will I expect be evident to Mr Hamilton.

As before, if it would be helpful to provide more information on that aspect, I am happy to speak directly to Mr Hamilton.

Best wishes

Liz

Statement

Mr Hamilton,

Please find below, brief answers to your specific questions and an accompanying general statement. I have addressed questions 2.5, 3 and 4 in my general statement.

My statement also expands on the points below, whilst also focussing on matters concerning the ministerial code.

[REDACTED]

I hope the following statement addresses all the questions you have asked, but would be happy to provide any clarification or further information you require.

General Statement

As a Special Adviser I am able to engage on ministers behalf in what would for permanent civil servants be political discussions. In particular this allows party liaison and attendance at party meetings. As Chief of Staff I advise the First Minister both on government policy and on political matters. [REDACTED]

Before detailing the actions I took, my role and the consideration given to aspects of the ministerial code, I can confirm that I had no discussion and provided no advice, written or oral, to the Permanent Secretary on the meetings or contacts considered within your remit. I discussed some points with the First Minister, and it could be said those discussions included the provision of oral advice, but provided no written advice.

In addition I can confirm that I took no action within government in relation to these matters, *with the exception of making SG counsel aware of them during the period of the judicial review*, and did not seek to bring any influence to bear on the Scottish Government investigation into complaints of sexual harassment in relation to Mr Salmond, rather it was a determination to ensure I did not even inadvertently influence the investigation or compromise its integrity that has led to questions being raised under 4.22 and 4.23 of the ministerial code.

I can also confirm that prior to the conclusion of the investigation into Mr Salmond I was not informed of the complaints or the investigation by Scottish Government officials and had no contact with either of the complainants. At the conclusion of the investigation I was made aware of the police referral, and the intention to issue a media statement, prior to Mr Salmond intimating legal proceedings against the Government and from memory threatening legal proceedings against the First Minister.

In relation to the meetings and contacts that are the subject of the self-referral, *I was present on* [REDACTED] April 2nd 2018, I was in the room with the First Minister for the duration of the phonecall on April 23rd and heard her contribution in full, and parts of Mr Salmond's contribution. I briefly interrupted the conversation on the 7th June, in order to advise the First Minister that her next engagement was waiting, and though I was not present, the First Minister made me aware of the content of her discussions on the 14th July and 18th July with Mr Salmond. I am not aware of any other contacts between the First Minister and Mr Salmond (beyond those published alongside her evidence to the Scottish Parliament Committee) or the First Minister and Mr Aberdeen.

In relation to the meeting of the 2nd April, it was attended by myself and the First Minister at her personal address. Mr Salmond attended, with Mr Aberdeen and an individual who was acting as a legal adviser to Mr Salmond.. The legal adviser had not been expected to attend, and it was only as Mr Aberdeen and Mr Salmond were due to arrive that Mr Aberdeen informed me that they would be joining them.

The individual was well known to both myself and the First Minister through longstanding political and personal connections, and I was aware he was regularly called on to provide informal advice to Mr Salmond, particularly when he faced legal or political difficulties.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Given this was a political and personal discussion it was organised so as not to require the use of government resources, which led to it taking place at the First Minister's personal home.

As Mr Aberdein indicated he would be accompanying Mr Salmond, and as it was clear Mr Salmond had an issue to discuss that would have political consequences, I considered it appropriate that I attend. I also had some concerns as to what Mr Salmond might want from the meeting. I had only ever known Mr Salmond to be someone who expected others to solve problems for him, and if he was in difficulty I suspected he might make requests of the First Minister and wanted to ensure she had advice.

The discussion on 2nd April took place in two parts. On arrival Mr Salmond asked to speak privately to the First Minister. During this time, Mr Aberdein and Mr Salmond's legal adviser showed me a copy of a letter from the Permanent Secretary and annex detailing complaints against Mr Salmond. They retained the copy of the letter and annex. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I made no record of this meeting. Following its conclusion, I remained briefly with the FM and we discussed whether we had an obligation to report it to the Permanent Secretary or record it under the ministerial code. Whilst it did not seem to me that the content was subject to the code, as the conversation had largely focussed on party matters and personal wellbeing, and Mr Salmond had not told the First Minister anything that the government did not know, but had rather shared with the First Minister information the government had given

him, the more relevant question seemed to be whether we should inform the Permanent Secretary.

Having had some limited involvement with the development of the procedure I understood that it specifically did not provide for a First Minister to be informed of complaints against a former minister because there was no legitimate reason to share that information, but also because it ensured that no investigation or outcome could be considered by complainants to be influenced by political interests. I understood this position had been taken to build confidence amongst employees in the independence of the system. Whilst I had no doubt the Permanent Secretary would be independent in her duties, it seemed to me that there was more risk to the integrity and confidentiality of the investigation whether real or perceived from informing the Permanent Secretary of our awareness, than of not doing so.

Equally whilst I didn't consider it to fall under 4.22 or 4.23 of the code, reflecting on it now, I do not know how it would have been possible to report under the current system, without jeopardising the confidentiality of the investigation. Not only would a subject matter have been required, but engagement between Mr Salmond and the First Minister would at that time have attracted public scrutiny, which in generating questions as to the purpose of the meeting, would again have either put the confidentiality of the investigation at risk, or put the First Minister in a position of having to give a less than frank response if asked what the meeting was about, in the interests of protecting that confidentiality

My judgement, in relation to informing the Permanent Secretary, changed when Mr Salmond continued to contact the First Minister and made explicit asks and implicit threats as well as informing her of prospective legal action.

On the evening of 23rd April the First Minister took a call from Mr Salmond in her private study in Bute House in the evening of the 23rd, shortly before attending a dinner engagement. I was in the study throughout and heard her contributions as well as some of his. Mr Salmond was asking the First Minister to tell the Permanent Secretary that she knew of the investigation in order to encourage the Permanent Secretary to agree to his request for mediation. The First Minister was firm that she would not do so. This conversation supported the earlier decision not to tell the Permanent Secretary.

On or around the 4th or 5th of June, the First Minister showed me a message she had received from Mr Salmond which appeared to indicate that he intended to take legal action against the government. Having worked around Mr Salmond over a number of years, I felt the message had a threatening tone which I recognised and was intended in my view to pressure the First Minister into taking action to in some way suppress or block the inquiry and prevent it concluding. The message also misrepresented the April 2nd meeting.

The First Minister indicated that she thought that having been informed of potential legal action she had a duty to share that with the government. I also felt that given the tone of the communication and the misrepresentation within it, that anything other than informing the Permanent Secretary, could at a later date have led to an undermining of the confidence in the investigation. We again discussed recording the meetings with private office for reporting under the Ministerial code, but given the same confidentiality risk remained and that the First Minister had decided to inform the Permanent Secretary, I felt that all necessary and practical action had been taken. The letter, as far as I am aware, was held by the Permanent Secretary's office.

I did not attend the meeting on 7th June in Aberdeen, which I understood was to inform Mr Salmond that the Permanent Secretary had been informed of the contact, and to re-iterate that the First Minister would not make any requests of her in relation to the investigation. I arrived at the hotel once the conversation was underway, but interrupted the meeting which I do not believe was long as the First Minister had informed me that he was running late, to

remind the First Minister of her next engagement. I was in Aberdeen to attend party conference as permitted of Special Advisers.

The First Minister reported to me that he had sought to raise the matter of a Judicial Review and push for her to intervene and that she had, as she had indicated she would, told him that she had informed the Permanent Secretary of his contact and would not act on his behalf in any way.

Shortly after conference, I asked the First Minister if she had informed the Permanent Secretary of the conversation and she indicated that she had.

I was not present at the meeting on the 14th July or call on the 18th July

I had approached Mr Aberdeen the previous week to ask if he knew if the investigation was coming to an end. My motivation was that I knew the First Minister was considering going on holiday and if it was going to conclude and Mr Salmond take any action, I felt she would not have wanted to be out of the country given the potential for party political ramifications. He indicated that he didn't know and that Mr Salmond was seeking arbitration. [REDACTED]

Following the meeting on the 14th July, the First Minister told me that she was concerned that while she had had no involvement, Mr Salmond had formed an inaccurate impression that she was in some way blocking his request for arbitration, and could not accept that the First Minister was not acting as he wanted her to. My understanding is that the First Minister corrected that view and again informed the Permanent Secretary. My understanding of the call on the 18th was to try to end any discussion of this issue on a more amicable basis.

In relation to the reporting and recording of information, I have set out above the consideration, advice and decisions made regarding reporting under the ministerial code and reporting matters to the Permanent Secretary. I do not believe that there were any other appropriate options available to the First Minister or myself, if we were to both protect the confidentiality of the investigation and avoid compromising or even unwittingly appearing to compromise its integrity.

On becoming aware that Mr Salmond had issued a statement confirming the fact of the investigation to the media in August 2018, there was no hesitation in addressing the fact that there had been contact with Mr Salmond.

This matter had already been recorded with the Permanent Secretary at the first point at which, in my view, on the balance of risk to the investigation process, it became appropriate to do so.

In responding to Mr Salmond's confirmation of the investigation, the First Minister volunteered in a media interview in August 2018 that she had been made aware of the complaints by him earlier in the year. She was under no pressure to do so. I supported her decision to do that, and when asked by the First Minister shortly before the interview, when the meeting was, I recalled it as being Easter Monday, the 2nd April.

I subsequently briefed, with the First Minister's endorsement, Scottish Government counsel in October 2018 on the facts of the First Minister's engagement with Mr Salmond

The First Minister also pro-actively set out, with my support, the contact she had had with Mr Salmond to Parliament in January 2019 following the conclusion of the Judicial Review, a decision which led to this referral. Again, she was under no pressure to do that, but we both considered it right that whilst the meetings were personal and political in nature, there should be transparency around them, despite for the reasons I have set out above, not considering that recording was required and not having, at the time, a confidential means of doing so without compromising the integrity of the process.

I hope this statement is of assistance to you, and stand ready to address any further queries you may have.

Liz Lloyd



T: [REDACTED]
E: PermanentSecretary@gov.scot

James Hamilton
Independent Adviser on the Scottish Ministerial
Code

c/o [REDACTED] [@gov.scot](mailto:[REDACTED]@gov.scot)

7 October 2020

Dear Mr Hamilton

Thank you for your letter of 8 September seeking information from me in relation to your consideration of the First Minister's self-referral under the Scottish Ministerial Code.

You asked for a statement of my actions and involvement in the matters covered by your remit. In providing such a statement, I should make clear from the outset that, as a civil servant, all my actions – including those taken in relation to this matter – are undertaken on behalf of Ministers and in keeping with the Civil Service Code.

I was not aware at the time – nor have I been made aware since - of any attempt by the First Minister to bring any influence to bear on the Scottish Government's investigation of complaints against Mr Salmond under the Procedure for Handling Harassment Complaints against Current or Former Ministers. At all times, my engagement with the First Minister was in keeping with the respective roles set out for the First Minister and Permanent Secretary in the Procedure. Accordingly, I did not inform the First Minister that formal complaints had been made about Mr Salmond when they were received in January 2018. In line with the Procedure, I did inform the First Minister of the outcome of the investigation at a meeting on 22 August 2018 in her capacity as both First Minister and as Leader of the Party which the former Minister in question, Mr Salmond, had represented.

As I have set out in my response to your specific questions below, the First Minister wrote to me on 6 June 2018, following a discussion on 5 June 2018, informing me of contact that she had had with Mr Salmond. I replied to the First Minister on 7 June 2018 to acknowledge receipt of her letter and to note the information it contained. In addition, I also wrote to the First Minister towards the end of the investigation on 17 August 2018 to inform her I was seeking legal advice on next steps. I am providing copies of all this correspondence as appendices to this letter, although one sentence in my letter of 17 August is redacted. You may wish to note that the same correspondence – with the same redactions - has also been provided to the Scottish Parliament's Committee on the Scottish Government Handling of Harassment Complaints and has today been published on its website (albeit with additional

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



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redactions)¹. In addition to these exchanges, the only other communication I recall with the First Minister on this matter was a telephone call sometime in mid-July in which she told me that she had met with Mr Salmond on 14 July 2018 and that he had raised the issue of arbitration with her. She made it clear to me again that she had no role in this matter and that I must reach whatever decision I thought appropriate. Accordingly, my communication with the First Minister on this issue was very limited during the period in which the investigation was in progress.

In line with the Procedure, Mr Salmond had a number of opportunities to contribute to the investigation. I address this further in my answers to your specific questions below.

The intentions that lay behind my actions at all times throughout this period were the need to follow the process set out in the Scottish Government's Procedure for Handling Harassment Complaints against Current or Former Ministers, in line with the Civil Service values of integrity, honesty, objectivity and impartiality. This was especially true in carrying out the responsibilities as Deciding Officer assigned to the Permanent Secretary under the Procedure. At no time did I experience any attempt whatsoever by the First Minister – or anyone acting on behalf of the First Minister – to influence how I undertook that role, or the decisions I came to, either in terms of the process followed or the substance of the matter.

Indeed, this point is made explicit in the First Minister's letter to me of 6 June 2018:

"I want to be very clear that my purpose sending this note is not to ask you to cease the investigation or to influence its course in any way – it is to be transparent with you about my knowledge of a potential challenge to the process. You and I have discussed on many occasions the importance of a zero tolerance approach to sexual harassment within the Scottish Government and the importance to building confidence in such an approach of taking such complaints seriously and ensuring proper investigation. I am clear that the seniority, political affiliation or relationship to me or my government of any person subject to a complaint should have no bearing on how it's handled. To that end, you have my support in taking whatever steps you consider necessary and appropriate to investigate any complaint about inappropriate conduct within the Scottish Government."

I have set out responses to each of your specific questions below.

1. In her statement to Parliament on 8 January 2019, the First Minister has disclosed five contacts (three meetings and two telephone conversations) with Mr Salmond. When were you first informed of the contacts between the First Minister and Mr Salmond, and any representations to the First Minister, or any civil servant or special advisor, made on behalf of Mr Salmond?

The First Minister first alerted me to her contact with Mr Salmond during my regular post-Cabinet meeting with her on 5 June 2018. The First Minister then wrote to me on the following day – 6 June 2018 – providing details of the contact with Mr Salmond on 2 April and 23 April 2018. The First Minister's letter went on to say, *"I intend to inform the FFM that I have told you about his approach to me and to advise him again that it would not be appropriate for me to intervene in the process."* I understood that the First Minister intended

¹ <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/116245.aspx>

to do so ahead of the Scottish National Party Spring Conference that took place later that week from 8-9 June 2018 in Aberdeen.

Aside from the subsequent contacts outlined by the First Minister in her statement to Parliament on 8 January 2019 – about which, as she made clear at First Minister's Questions on 10 January 2019², she also told me - I am not aware of any further representations to the First Minister or any special advisor on behalf of Mr Salmond.

In addition, and as I set out in evidence that I gave to the Committee on the Scottish Government Handling of Harassment Complainants on 18 August 2020, I had also been made aware in early November 2017 that Mr Salmond had contacted civil servants about an incident at Edinburgh airport that was being investigated by Sky News. I shared this information with the First Minister, as I made clear to the Committee.

With the exception of the representations made by Mr Salmond as part of the investigation under the Procedure, I am not aware of any further representations to any civil servant on behalf of Mr Salmond in relation to the investigation.

2. What information was provided to you about the contacts and meetings between the First Minister and Mr Salmond, and any representations made on Mr Salmond's behalf?

The First Minister's letter of 6 June 2018, following a discussion on 5 June 2018, represents the full extent of the written information that was provided to me about these contacts and meetings. In addition to these exchanges, the only other communication I recall with the First Minister on this matter was a telephone call sometime in mid-July in which she told me that she had met with Mr Salmond on 14 July 2018 and that he had raised the issue of arbitration with her. She made it clear to me again that she had no role in this matter and that I must reach whatever decision I thought appropriate.

3. Did you or any other civil servant or special adviser, provide advice to the First Minister on contacts with or representations received from Mr Salmond? If so, when was this advice provided and what was the content of this advice. Can you please provide me with copies of any notes, memoranda etc., concerning or containing any such advice.

I did not provide any advice to the First Minister on contacts with or representations received from Mr Salmond. As the First Minister made clear in her letter to me on 6 June 2018, *"It remains my view that it would be inappropriate for us to discuss the substance of the investigation prior to its conclusion."*

I am not aware of any other civil servant or special adviser providing advice to the First Minister on contacts with or representations received from Mr Salmond.

² <https://www.parliament.scot/parliamentarybusiness/report.aspx?r=11875&mode=pdf>

4. How was the investigation into the complaints against Mr Salmond conducted? What procedures were followed and applied? What was the role of the First Minister in relation to the investigation? Was there any involvement from the First Minister, or any other person acting on behalf of the First Minister, in the investigation? Were there any representations received, either directly or indirectly, from Mr Salmond or anyone acting on his behalf?

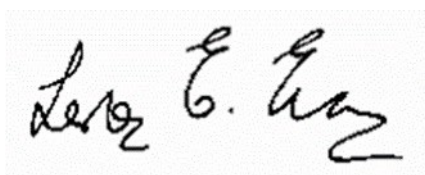
The questions set out here will be covered in full by the Scottish Government's fourth and final written statement and supporting documents to the Committee on the Scottish Government Handling of Harassment Complaints, which will cover the investigation of complaints. As you may be aware, the Deputy First Minister wrote to the Convener on 31 August 2020 to inform her that the submission of this material has been delayed pending resolution of an objection received by the Scottish Government to the proposed release of the material³.

The Scottish Government is currently taking steps to resolve this situation, which include initiating an application to court. I will ensure a copy of the written statement is sent to you once it has been provided to the Committee.

However, I can confirm now that, in accordance with the Procedure, the First Minister had no role in relation to the investigation. I can also confirm that, again in accordance with the Procedure, Mr Salmond had the opportunity to make representations as part of the investigation, which he did on a number of occasions through his legal representatives.

I hope the information I have provided is helpful. I would be happy to provide any further information you require, either by correspondence or through an interview.

Yours sincerely



1. Leslie Evans
Permanent Secretary

Appendix A - Letter from First Minister to Permanent Secretary – 6 June 2018

Appendix B - Letter from Permanent Secretary to First Minister – 7 June 2018

Appendix C - Letter from Permanent Secretary to First Minister – 17 August 2018

³https://www.parliament.scot/HarassmentComplaintsCommittee/General%20documents/DFM_letter_to_Convener_-_31_August_2020.pdf

Participant	Date received	Response
First Minister	9 October 2020	Attached as PDF
Permanent Secretary	7 October 2020	Attached as PDFs
Liz Lloyd	9 October 2020 9 October. 12 November 2020	Background documents provided on 9 October- attached as a password document. Main document attached as a password protected word document. Supplementary content as follows Firstly an entirely minor point – in my statement I have made reference to Mr Salmond’s timekeeping. A drafting error remains in the statement and the sentence should read as below “2.6)I made no record of the duration of the meeting, though I believe they arrived later than the arranged time, which was not normal for Mr Salmond. I would estimate no more than two hours. “ 
Geoff Aberdein	28 October 2020	Attached as password protected file.
Duncan Hamilton	25 November 2020	Many thanks for this letter which I have considered carefully.

		I regret that my professional duties and obligations do not permit me to assist in providing the information sought. I trust that Mr Hamilton will understand that position.
Kevin Pringle	27 November 2020	EMAILED VIA [REDACTED] Thank you for your letter of 25 November. I can confirm that I took part in the telephone conversation described by Geoff Aberdein. [REDACTED] [REDACTED] Mr Aberdein was seeking advice as to whether to inform Mr Salmond, and it was agreed that it was fair he should do so. [REDACTED] [REDACTED] He did not have detailed knowledge of the allegations that he was able to share, which I learned of subsequently from Mr Salmond himself, as well as from information as it entered the public domain. I hope that this is of assistance.
David Clegg	3 December 2020	RE: SCOTTISH MINISTERIAL CODE: FIRST MINISTER'S SELF-REFERRAL Mr Hamilton, Apologies for the delay in responding. I did not receive your email and, as our entire organisation is currently home working, only received the paper copy of your inquiry today. I can confirm that I contacted Geoff Aberdein on January 14, 2019 to ascertain if he was the "intermediary" who had set up the meeting between Nicola Sturgeon and Alex Salmond on April 2, 2018, at the First Minister's home.

		He confirmed this was the case and subsequently sent me an email with more details. [REDACTED] [REDACTED] [REDACTED] I have nothing further of note to add about my interactions with Mr Aberdeen that would be relevant to your inquiry. [REDACTED] [REDACTED] In terms of the remit of your inquiry, the only other observation I would make is that during my extensive investigations into these matters in January 2019 nobody I spoke to referred to the meeting between Ms Sturgeon and Mr Aberdeen on March 29, 2018. The first I learnt of this meeting was during Mr Aberdeen's testimony in the criminal trial of Mr Salmond. Sorry I can't be of more help. If you require any further information from me please do not hesitate to get in touch via this email address. Yours sincerely,
Stuart Nicolson	7 December 2020	<i>Thank you for your letter of November 25th.</i>

		<i>In answer to your specific question,</i> [REDACTED] <i>With regard to your other question, I do not have any further information I can provide.</i> [REDACTED]
Peter Murrell	14 December 2020	I refer to your letter of 25 November 2020. I can confirm that as set out in my written evidence to the Scottish Parliament committee, I was aware of the meeting taking place on 2 April between the First Minister and Mr Salmond but I was not present at it and did not participate in it. Following my oral evidence session last week there are two additional points that I would draw to your attention, First, I returned home while Mr Salmond was still present. I briefly acknowledged the others who were present. However, Mr Salmond and the First Minister were in another room and I did not see or speak to them. Second, there has been a suggestion that my oral evidence contradicted statements by the First Minister about the nature of the meetings she had with Mr Salmond. In fact, my evidence was simply reflecting my own reading of Nicola's written evidence to the Committee.

		It is not for me to speculate on, or determine, the basis or nature of the meetings as I was not party to them. I trust these additional points are helpful.
--	--	--

From: [REDACTED]
Sent: 14 December 2020 09:53
To: James Hamilton <[REDACTED]>
Subject: FW: Reply to James Hamilton

Hi James,

Comments from Mr Murrell.

Best wishes,

[REDACTED]

From: Peter Murrell <[REDACTED]>
Sent: 14 December 2020 09:38
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: Reply to James Hamilton

Dear Mr Hamilton

I refer to your letter of 25 November 2020.

I can confirm that as set out in my written evidence to the Scottish Parliament committee, I was aware of the meeting taking place on 2 April between the First Minister and Mr Salmond but I was not present at it and did not participate in it.

Following my oral evidence session last week there are two additional points that I would draw to your attention,

First, I returned home while Mr Salmond was still present. I briefly acknowledged the others who were present. However, Mr Salmond and the First Minister were in another room and I did not see or speak to them.

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I trust these additional points are helpful.

Meantime, my good wishes for the coming Season

Peter

PETER MURRELL
Chief Executive

Scottish National Party
Gordon Lamb House, 3 Jackson's Entry, Edinburgh EH8 8PJ.

Direct Dial [REDACTED] Fax [REDACTED]

[REDACTED]

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From: [REDACTED]
Sent: 14 December 2020 10:05
To: Peter Murrell <Peter.Murrell@snp.org>
Subject: RE: Reply to James Hamilton

Dear Mr Murrell,

Many thanks, I will ensure that this is passed to Mr Hamilton, and will let you know if there is any further correspondence or questions he wishes to ask.

Best wishes,

[REDACTED]

From: Peter Murrell <Peter.Murrell@snp.org>
Sent: 14 December 2020 09:38
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: Reply to James Hamilton

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Peter

PETER MURRELL
Chief Executive

Scottish National Party

Gordon Lamb House, 3 Jackson's Entry, Edinburgh EH8 8PJ.
Direct Dial [REDACTED] Fax [REDACTED]

twitter.com/PeterMurrell
facebook.com/PeterMurrellSNP
linkedin.com/in/PeterMurrell

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—

From: Peter Murrell [REDACTED]
Sent: 14 December 2020 09:38
To: [REDACTED]@gov.scot>
Subject: Reply to James Hamilton

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Peter

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Gordon Lamb House, 3 Jackson's Entry, Edinburgh EH8 8PJ.
[REDACTED]

twitter.com/PeterMurrell
facebook.com/PeterMurrellSNP
linkedin.com/in/PeterMurrell

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From: [REDACTED]
Sent: 15 January 2021 09:36
To: 'James Hamilton' [REDACTED]
Subject: FW: Ministerial code investigation

And, for information, the response DFM sent to Alex Cole-Hamilton and colleagues.

From: Rogers D (David) (Constitution and Cabinet Director)
<David.Rogers@gov.scot>
Sent: 15 January 2021 08:07
To: [REDACTED] [REDACTED] [gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: FW: Ministerial code investigation

[REDACTED] I attach, for Mr Hamilton's information, a letter that DFM has sent to the group of MSPs who had also written to Mr Hamilton.

David

David Rogers

Director, Constitution and Cabinet | The Scottish Government | 4 N.04, St Andrew's House, Edinburgh, EH1 3DG | T: [REDACTED] | E: david.rogers@gov.scot



F/T: [REDACTED]
E: dfmcse@gov.scot

Alex Cole-Hamilton MSP
Margaret Mitchell MSP
Jackie Baillie MSP
Murdo Fraser MSP

By Email

1. 13 January 2021

Dear Members

Thank you for your letter of 10 January about the First Minister's self-referral under the Ministerial Code.

I was somewhat surprised by the terms of your letter which do not appear to take account of what both the First Minister and I have said to Parliament about the scope for Mr Hamilton to report on any aspect of the Ministerial Code as he considers necessary.

At First Minister's Questions on 29 October the First Minister said:

My view right now is that James Hamilton, who is the adviser undertaking the investigation into the ministerial code, is not restricted at all in the issues that he can look at. If he thinks that there are any issues that engage the ministerial code or could in any way constitute a breach of the ministerial code, my view is that he is free to look at them. If he considers that that requires any change to his official remit, I am sure that he is perfectly able to say that. However, for the record and to be clear, I do not consider his remit to be limited to just one aspect of the ministerial code.

2. I confirmed this position on 6 November in an answer to PQ S5W-32472 from Alex Cole- Hamilton as follows:

Parliament was advised on 3 August 2020 about the terms of the remit for the Ministerial Code referral in PQ answer S5W 31054. The decision to proceed with a referral and the setting of its terms are consistent with the provisions set out in the Ministerial Code and have been agreed with the Independent Adviser. The terms of the remit address the concerns that have been raised about the First Minister's compliance with specific aspects of the Code in relation to certain meetings and other contacts, as described in the remit. As indicated by the First Minister at First Minister's Questions on 29 October, in delivering the remit the Independent Adviser is not constrained in taking evidence and reporting on other aspects of the Ministerial Code that he deems to be relevant.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

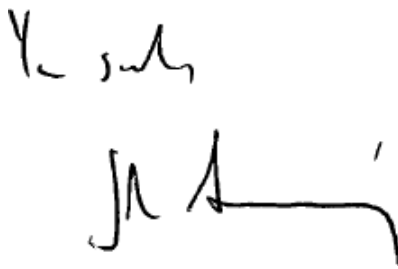


3. We could not therefore have been any clearer that Mr Hamilton has the maximum freedom to consider any aspect of the Ministerial Code that he believes is relevant.

Indeed, Mr Hamilton has written to me to confirm that he considers his existing remit to cover the matter that you raise – the First Minister’s reporting of meetings to the Parliament. He has also copied to me his letter to you this evening that makes the same point.

It is clear, therefore, that the concerns set out in your letter are entirely groundless and misplaced.

I have written to the Convener of the Committee on the Scottish Government Handling of Harassment Complaints with a copy of the letter I received from Mr Hamilton and my reply. I have also provided a copy of that correspondence to SPICE.

Handwritten signature of John Swinney in black ink.

JOHN SWINNEY

From: [REDACTED]
Sent: 15 March 2021 13:24
To: Douglas Ross <douglas.ross@advocates.org.uk>
Subject: RE: [REDACTED] [UNSCANNED]

Dear Douglas,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 15 March 2021 09:51
To: 'Douglas Ross' <douglas.ross@advocates.org.uk>
Subject: RE: [REDACTED] [UNSCANNED]

Dear Douglas,

Many thanks for your email. [REDACTED]

Mr Hamilton is very obliged for your prompt response, [REDACTED]

[REDACTED]

Best wishes,

[REDACTED]

From: Douglas Ross <douglas.ross@advocates.org.uk>
Sent: 12 March 2021 19:07
To: [REDACTED]
Subject: RE: Final report- final legal check [UNSCANNED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

As always, I would be happy to discuss any matters arising.

Regards

Douglas
Douglas Ross QC Ampersand Advocates

phone: [REDACTED]
web: www.ampersandadvocates.com

Clerk: [Alan Moffat](#)
Deputy clerks: [Jennifer Dunn](#), [Sheena Hume](#), [Shawn McArthur](#) & [Kathryn Ferguson](#)



Leading Top Ranked Set in Chambers & Partners and The Legal 500

From: [REDACTED]
Sent: 11 March 2021 09:35
To: Douglas Ross <douglas.ross@advocates.org.uk>
Subject: RE: [REDACTED] [UNSCANNED]

Dear Douglas,

[REDACTED]

Happy to discuss.

Best wishes,

[REDACTED]

From: Douglas Ross <douglas.ross@advocates.org.uk>
Sent: 09 March 2021 12:17
To: [REDACTED]
Subject: [REDACTED]

[REDACTED]

Yes, I should be able to make time on either Thursday or Friday.

Regards

Douglas

Douglas Ross QC Ampersand Advocates

phone: [REDACTED]

web: www.ampersandadvocates.com

Clerk: [Alan Moffat](#)

Deputy clerks: [Jennifer Dunn](#), [Sheena Hume](#), [Shawn McArthur](#) & [Kathryn Ferguson](#)



Leading Top Ranked Set in Chambers & Partners and The Legal 500

From: [REDACTED]

Sent: 09 March 2021 10:53

To: Douglas Ross <douglas.ross@advocates.org.uk>

Subject: [REDACTED]

Hi Douglas,

Hope you are well and that you had a good weekend.

[REDACTED]

On that basis, I wanted to check if you were available at all on Thursday or Friday to [REDACTED]?

Best wishes,

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[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Further to your e-mail below, I have read the final draft report and offer the following observations:

[REDACTED]

As always, I would be happy to discuss any matters arising.

Regards

Douglas
Douglas Ross QC Ampersand Advocates

phone: [REDACTED]

web: www.ampersandadvocates.com

Clerk: [Alan Moffat](#)

Deputy clerks: [Jennifer Dunn](#), [Sheena Hume](#), [Shawn McArthur](#) & [Kathryn Ferguson](#)



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Dear Douglas,

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Best wishes,

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Douglas

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Subject: [REDACTED]

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[REDACTED]?

Best wishes,

[REDACTED]

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Re: Media interest in the report

From: James Hamilton <[REDACTED]@[REDACTED]>
To: [REDACTED]@gov.scot>
Date: Mon, 15 Mar 2021 13:55:31 +0000

No, I would not propose to do interviews. The report should speak for itself.

On Mon 15 Mar 2021 at 13:53 <[REDACTED]@gov.scot> wrote:

Hi James,

Just a couple of things to flag- a journalist has been in touch to ask if you intend to proactively inform the media at the point the report is handed to the DFM. Even if you don't intend to do that, we will probably need a holding line for the period between handing the report over and publication.

Additionally, I think there will be various approaches for you to be interviewed about the report- don't know if you did any interviews after the Welsh report or have any specific views on this issue?

Best wishes,

[REDACTED]

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From: [REDACTED]
Sent: 15 March 2021 12:13
To: James Hamilton [REDACTED]
Subject: FW: Interview transcript [UNSCANNED]

Response from Mr Aberdeen to the transcript.

From: Geoff Aberdeen [REDACTED]
Sent: 15 March 2021 11:54
To: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: Re: Interview transcript [UNSCANNED]

Hi [REDACTED]

Thank you for this.

I think the transcript essentially covers what my position is and has been throughout.

[REDACTED]

Furthermore, can you provide me with any information as to how (if at all) I may be referred to in Mr Hamilton's report? As you can imagine, this whole situation has caused me significant amount of emotional and professional discomfort and my strong preference is not to be referred to by name at all.

Finally, I'm extremely uncomfortable with this transcript being sent to the Scottish Government and potentially within scope of a future FOI. I request this is not sent to the Scottish Government in any form. I have done my civic duty in assisting Mr Hamilton with his investigation but remain very wary of the transcript being made available at a later date and causing me further discomfort.

Thank you for your guidance to date and I look forward to hearing from you.

Best wishes

Geoff

From: [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Date: Friday, 12 March 2021 at 14:11
To: " [REDACTED] " <geoffaberdeen@scottish.gov.uk> [REDACTED]
Subject: Interview transcript [UNSCANNED]

Dear Geoff,

With apologies for the delay, please see attached transcript of the discussion you had with Mr Hamilton last week. As discussed, this has been adjusted to remove some specific names in certain contexts. Where the transcript has been adjusted, the new text is included in square brackets.

The document is password protected; I will send the password in a separate email.

Happy to discuss.

Best wishes,



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From: [REDACTED]
Sent: 15 March 2021 14:15
To: Bruce A (Andrew) <Andrew.Bruce@gov.scot>
Subject: Interview transcript

Hi Andy,

With apologies for the delay, please see attached transcript of the discussion between Perm Sec and Mr Hamilton. [REDACTED]

[REDACTED] Happy to discuss.

Best wishes,

[REDACTED]

Call with the Permanent Secretary, 27 January 2021

Attendees

James Hamilton, Independent Advisor under the Ministerial Code

Leslie Evans, Permanent Secretary

██████████ Secretariat to the Independent Advisor under the Ministerial Code

Transcript of meeting

JH: Thank you for agreeing to participate in this interview. As you know, I am conducting an investigation into the First Minister's self-referral under the Ministerial code concerning meetings between the First Minister and Alex Salmond in 2018.

Thank you for the written statement you have provided. I have used the information in this, and other statements I have received, to develop a list of further questions I would like to discuss with you, which I think you have seen.

LE: No, I don't think I've seen that.

JH: Okay. ██████████ who provides secretariat support to the investigation, will also be present during the interview to take notes and to provide practical and technical support if required.

The meeting will also be recorded, so that a transcript of the conversation can be produced. This will be shared with you as a record of the discussion, and once the transcript is agreed the recording will be destroyed.

In producing my report, I may find that I need to refer to the information you provide. I will be taking appropriate action to ensure that my report is compliant with any relevant court order.

Do you have any questions about the process, or how the information you provide will be used?

In that case, let us turn to the main part of the discussion.

What was your involvement in drawing up the new "Procedure" for dealing with harassment complaints against Ministers and former Ministers? And there were a couple of other sub themes of that. What was the intention behind the changes? What prompted them? At whose initiative was the process of reviewing and changing the procedures made? And whether the review was influenced in any way by any specific incidents? And also what weaknesses if any there were in the former system of, or what were they perceived to be?

And who was involved in the review process? Whether former Ministers were consulted? If not, were there any considerations given to consulting them? So that's really the first 4 questions but they are interlinked I think so I put them together.

LE: Right there is a lot there, actually, and I'm happy to give you my role in all of this, but actually in terms of what you have just asked there's quite a lot of information that we could bring to bear that would come from other sources, or indeed extant sources, so for example the information that we have already submitted to the Inquiry, both verbal and written, I can point you in the right direction of those, if you were to kindly send me those questions, to make sure that you have got the most fulsome, I suppose, account, because there's quite a lot of technical detail here and we're compiling this not just for the Inquiry but actually also for Laura Dunlop QC's review of the procedure. So to start off with, my role, I was not directly involved in the putting together of the procedure, you, one wouldn't expect to because obviously it was something that was going to be led by someone to whom I delegated it from the Cabinet commission, which it where it initiated, or where it originated rather. And it was led by one of my senior civil servants, James Hynd, again, who has given quite a lot of evidence about this to the Inquiry, which we could sift out for you, in consultation with HR and legal advice. And indeed other sources, so we asked, or they asked, I found subsequently, the police, for example, about witness and support for individuals. They, I think, took advice from ACAS, and procedures around the traditions and what is generally seen to be good practice. So it was a period of time between, well in the autumn, October, to when it was signed off on the 20th of December when there were a lot of iterations, so there were versions being re-evaluated, compressed, revised and so on over that period of time, and it was James Hynd who was leading that but with input from HR and from legal colleagues.

JH: Okay. And in relation to specific incidents, I think there had been a particular alleged incident which had taken place at the Airport involving Mr Salmond, or allegedly involving Mr Salmond, and I think there was also another Minister who resigned at some point. Were these part of what prompted it, or was it simply...

LE: No. Clearly they were contemporary. I didn't know, and I'm glad to say I still don't know what the content or the issue around Edinburgh Airport was. All I knew was that my staff were being contacted by Mr Salmond's representatives and that was of concern to me, but I was- I mean, two points here- I was very deliberately, because of the procedure, even when it was evolving, I was very deliberately and appropriately kept well out of any incidents that might be coming forward in terms of being concerns, not even complaints but concerns at that point, because I was aware that I may subsequently have a role in that procedure, as in other procedures, where I might have to make, take some opinion, some stance and be a Deciding Officer. So I was, as Perm Sec I'm always a bit away, from these things, because it's not my expertise, but it was particularly important that I was away from that side of things, from any potential "contamination", my words not others. So the Edinburgh Airport issue was rather more contextual, I was concerned about it but for all sorts of reasons, and indeed the Ministerial, or the issue around a Minister, was found to be parliamentary in nature so we had no involvement in that.

JH: Okay.

LE: The thing that was, I suppose, the thing that was really driving all of this, at this point, was the heightened awareness of the "Me Too" campaign, and there were instances in Westminster and as you have mentioned in the Scottish Parliament, that was creating concern, allegations that were being considered within the Westminster

context, but a wider issue, and that was what prompted us to consider, and for Cabinet to ask me specifically, “are our procedures up to this”, given what we’re seeing elsewhere in other organisations, institutions, so that was one really clear direction, and the other one was I received a direction from my own line manager, that the Cabinet Secretary of the day, which was Sir Jeremy Heywood, you may have seen the letter, was can supply it to you, asking all Permanent Secretaries to make sure that we had procedures in place in case of such allegations being made.

JH: Okay. That’s very helpful and I think that documentation that you mentioned would probably be helpful too, but it’s not a primary focus of what I’m doing, it’s really background to understand the context...

LE: Okay.

JH: ... and there have been some suggestions, perhaps, about other views that why this came about

LE: Right.

JH: The other thing I wanted to ask was how many harassment complaints have there been in recent years? I’ve seen some Parliamentary briefings that suggested there were very few, if indeed none, going back a few years, but that there have been a number in the more recent past. Do you have any statistics on that or any information that you...

LE: We do. I mean rather than me try and recollect them all now we can give you that, it depends whether you are talking about Ministers or non- Ministers, but we can give you both, if that’s helpful.

JH: It would be useful to have the overall context, and indeed how many Ministers, and a breakdown of how many of them, for example, are sexual harassment, how many of them are bullying....

LE: Right.

JH: ... whatever way you categorise them, and just to have some sense of the scale of the problem.

LE: Okay.

JH: This is just a very general question, which I didn’t put in the list, but you meet- I presume you meet the First Minister on a very frequent basis?

LE: Yes, regularly, yes.

JH: I mean, would you meet daily, or...

LE: No.

JH: Less often than that, once a week?

LE: Yes. Once a week. Once a week is our traditional rhythm. Not every week but most weeks, not least in the margins of Cabinet, of course I'm there for every Cabinet meeting.

JH: Yes, yes, okay. And, you, I know you've told me this in the written statement, that prior to the 5th of June 2018 the First Minister hadn't made you aware of her communications with Mr Salmond?

LE: No.

JH: And you can confirm that to me? Now, one of the things I'm asked to do is determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the procedure. And I think by implication what she has said in her written statement would suggest that you are not aware of any such attempt. Can you confirm that to me?

LE: Absolutely. In fact quite the opposite. She was at pains when she did speak to me about these meetings, about which I had known nothing, I think she was very concerned lest it could be construed or considered in some way that she would use that information. And she was very upfront, I think both, certainly in the call and in writing subsequently to make it very clear. But I also, I have to say, took my role as Deciding Officer incredibly seriously, as indeed I should, and I was not in any mind or ever open to any kind of persuasion of that kind. So even if she had, which I have to say she did not, absolutely not in any way, I was very clear about my responsibilities and my role as a civil servant as well, in that respect.

JH: I presume that the information about complaints was kept very tight?

LE: Yes.

JH: I mean, apart from you, presumably you have a secretary or somebody who would have been aware of things, or were you the only person who was aware of it?

LE: No, I wasn't. I didn't know about the nature of the complaints myself, until I read about them at the very end of Jan, sorry it was the 23rd of February, I remember it very clearly.

JH: As Deciding Officer?

LE: Yes, so I had no knowledge of them at all, and that was exactly right. And it was at that point when I read about them in a report, I was being asked to make an assessment "were these causes for concern". Not who did what or anything, but were these worthy of further investigation. So it was only at that point that I became aware of that. The number of people that would have been aware of the actual content and nature of the complaints was very small. It wouldn't have been only me, but I wouldn't say that my, people in my office would know about it either, it was HR

who was most familiar with it as they were providing support to the individuals before they transferred them from concern into the formal complaint procedure.

JH: How big an HR unit do you have?

LE: Well, in terms of the people that were involved in this, I can't say categorically but I would say a couple of people would know in the HR side.

JH: Yeah.

LE: And somebody in legal would subsequently find out because of course it then became, it moved into the, more issues of the JR and so on. But actually even then, the number of reports that were produced, hardly anybody saw, quite rightly, hardly anybody saw the report at all.

JH: The reason I'm interested in this is that were obviously some rumours going about [REDACTED]

LE: Right.

JH: [REDACTED] had heard something, but the likelihood I suppose, from what you are saying, is that any rumours wouldn't have emanated from within the people who would be investigating complaints, or dealing with them.

LE: No, no. And I mean, I suppose, I don't know what those rumours are, or what they are alleged to be, and it's nothing to do with me. But I suppose the issue here is that we were, our focus, and certainly HR's focus, was very much on protecting the identify, as well as the nature of this, of these allegations. Not just for the individuals who were raising the complaints, but actually for the integrity of the person against whom these allegations were being made.

JH: Sure.

LE: So it was, they were, I mean, as you will probably know, it's in the DNA of good HR people to keep things very tight.

JH: Of course, yes.

LE: And, the- I was very very concerned that the confidentiality was kept tight. So I can't tell you exactly how many people may have known about the complaints, as opposed to the content of the complaints, but it would still have been really very small.

JH: Okay. Now, when the First Minister informed you of the meetings on the 5th of June, was there any discussion of whether there should have been a record of the meetings, or whether then should have been notified as meetings under the provision in the Ministerial Code which talks about meetings with outside people and so forth?

LE: I don't recall that, I mean obviously she wrote to me after that, and you'll have seen the letter. But when she told me which was verbally the day before, on the 5th, it wasn't a very long conversation. I mean her, I think she was at pains to be upfront but I don't think she wanted to dwell on the nature because she said "I am going to be writing to you about this". So...

JH: Yeah. So you didn't ask any further questions yourself?

LE: No, I didn't at that point, I didn't, well I didn't- no I didn't, I didn't. I had assumed, perhaps wrongly, that they were personal or party space. If I had heard anything that made me think they were more official than that perhaps I would have asked that question. I'm afraid I made- rightly or wrongly- I made an assumption on the basis of what she told me at that time.

JH: Well, I mean did she just simply tell you she had met Mr Salmond, or did she tell you more about it than that?

LE: She didn't go in to detail at all. She said that she had had meetings, a meeting with him, but she didn't go in to any detail, partly, I suspect, she looked at the expression on my face, and probably even at her own, you know, she would have been careful herself, because, as I have said, she wouldn't have wanted to have been seen to be telling me more than she should have done in terms of being accused of or my concern that it could have been construed. And as you know, Civil Servants are, have a healthy neurosis about this kind of thing, I would not want to have been seen- my face probably told a story, as in "I don't know if I want to be told anything more about this" but she was adamant she was going to write me, which was absolutely the right thing to do, so I said "of course, do", and it was a few hours later that she wrote to me.

JH: And you didn't express any view to her about the propriety or anything of that sort of meeting?

LE: I didn't at that point because I was quite surprised by it, I have to say, and it was a very short exchange. But, and also, I knew she was going to be writing to me and telling me what that meant. Of course, I'm not her diary keeper either so I wouldn't have known what, quite rightly so, what those meetings were about and whether they were Government or party meetings.

JH: But if it had been a pure party thing, presumably she wouldn't have found it necessary to tell you anything?

LE: Well I suppose, looking back on what she said, she was- I don't know what happened in those discussions, and I'm not going to try and say I do, and it's right that I don't, but I had assumed the reason that she had raised it with me was because she was concerned that he was asking her or implying she might do something, say something, have some locus, which she has not, in the process, so that, I'm afraid, is what I assumed, that it was. I also know that they are old friends, you know, that's not new, they had worked together, it was not extraordinary that she should have some contact with him, what I thought was my concern, primarily, was

that it couldn't be misconstrued as having any impact on the procedure that was still live at that point, and that I had still got a role in.

JH: So, were you aware then that it was something to do with the procedure that he was meeting her about?

LE: No, because she didn't tell me that on the 5th, she just said that he had- I mean I can't remember the detail of the conversation to be honest, it was pretty short, I know that, because it was a part of our meetings, one of our normal meetings, if you like, and also because I was a bit surprised by it, a bit taken aback by it. I don't remember her telling me anything about it particularly other than I shall write to you about it and it's important that I do. I said "yes it is" and my assumptions were, I have to say, that it was two people who knew each other meeting rather than anything more formal than that, but I didn't want to be engaged in it any further.

JH: And something quite specific I want to ask you about the discussion you had in mid-July 2018, and I think she told you at that stage that Mr Salmond was looking for a process of arbitration.

LE: Yes.

JH: Now, there seems to have been, in my mind, at any rate, some confusion over what is meant by arbitration, whether he was talking about having some sort of mediation between himself and the complainants, or there's a letter from his solicitors at a later date which says the arbitration they were talking about was never about the actual complaints, but about the method by which these complaints would be resolved. Do you understand, what was your understanding of what he meant, or did you ask any further questions about it, as I think the First Minister says that she made it clear that she wasn't asking you to do anything and wasn't suggesting that she did, but wanted you to be aware that he had made these submissions?

LE: Yes, I understand that. I mean, again, I can give you some quite detailed lines, that we, well date lines and timelines of all of this that might be helpful. Short and sharp, but we shared a lot of information on this in the Inquiry and I gave evidence to this effect as well. I mean, first of all there was a discussion about mediation and that was dispatched quite quickly because the complainants did not want to get engaged in mediation and made it quite clear that they didn't. In terms of arbitration, I think the description as I remember it, and I don't have the letter in front, was about some kind of judicial appointment of some kind that could see whether this could be taken, reduce the need for any procedural continuation and indeed, could be construed, you know, keep it simpler, take it out of any procedural requirement. I took legal advice on this, because that was my general go to on the correspondence with Levy and McRae, because it was coming from a legal source and I was guided at every stage by this. And so we took advice on mediation from HR, and we took on advice on this kind of arbitration from our legal, my legal colleagues, and we wrote back in accordance with that. I'm trying to remember and this is why I need to get, refresh my memory and perhaps share with you, but as far as I can remember I think we had already refused arbitration by the time the First Minister came back in touch, got in touch with me about it. I haven't got an exact date of that, I think she has got a

clearer recollection of that call than I have. I remember the call but I don't remember the date, because I think she was on holiday.

JH: From your point of view, these representations, I suppose if I call them that, were coming through Mr Salmond's solicitors and being dealt with...

LE: Oh yes. Absolutely, yes indeed.

JH:... that way.

LE: Oh yes, I took advice from our legal colleagues because as I said I did with every piece of correspondence with them because I wanted to be careful, but yes it was being put through the correspondence, the continual correspondence that we were having with them, yeah.

JH: Sure. Now, it, I am sort of conscious when I look at this that the First Minister seemed to be, I think the only person she was talking to for advice was her Chief of Staff, I don't think she got advice from any of the permanent Civil Service about these questions. And would she have been able to take advice? I mean obviously you couldn't be approached because of your role in dealing with things, but could she have approached some other senior Civil Servant, and looked for advice in relation to how she should deal with these problems, without you becoming aware of it, or?

LE: When you say these problems, are you talking about meetings with...

JH: How to handle Mr Salmond, yes.

LE: Yeah.

JH: ... should she be meeting him at all, what she should do about his requests?

LE: Yeah, I mean I think she was right, and as you say it wouldn't have been me. Obviously there are other civil servants who, to whom she could have directed these. I think not many, actually, because the role is pretty clean cut, and I think the, I'm not trying to speak on her behalf, but I think she has, to be fair to her, always been absolutely clear in her delineation between party and government. And she's very uncomfortable talking about party business in any government frame at all. Quite rightly, of course, that's exactly right. But she is really forensic about it. So whilst I can't speak on her behalf, and I wouldn't, I suspect she would have been reluctant to have spoken to a senior, a civil servant about something which she was very much seeing through a party lens.

JH: Sure.

LE: But of course, she could have gone to, I suppose if anybody, she might- you know, I am her go to person on this kind of thing so it would have been difficult for her to have thought elsewhere. James Hynd, who was carrying out the procedure development, looks after Cabinet business and was there at the time of the commission of the procedure then actually developed the procedure. But I think it

would have been very uncomfortable for her, and I mean that in the professional sense, to feel that she was crossing the line between party and government.

JH: Were, there were obviously party considerations, in that she has said herself one of her concerns was that he might resign, or that he might do various things. Obviously that's purely party matter, but also he was suggesting apart from arbitration, that as First Minister she was entitled to step in and essentially override the procedure, and you know that's something that perhaps somebody, some civil servant advice might have been, well in fact she rejected that as we know,

LE: She was very clear, I mean she was part of the signing off of the procedure. She did sign off on it, so she was absolutely crystal clear, she had a copy of it, I'm sure, somewhere, that her role and her locus was not that. She knew that pretty well.

JH: And she seems to have been very firm in that view.

LE: Yeah, she wouldn't need a civil servant of any calibre to tell her that, she was very clear, so yeah.

JH: Okay, I understand that. There's the final question that I wanted to ask you, because again, one of the, one of the things I'm asked to look at is whether there is a case for any amendments to the Ministerial Code in the light of what has happened. Have you any views about that, or are there any parts of it that you think need strengthening or tweaking, or?

LE: I'd like to think a bit, a bit more about that if I may and give a couple of sentences, rather than give you anything sort of glib or off the cuff. I think- two things- let me think about it and come back to you, cos I think that would be a helpful thing for me to spend a little bit of time thinking about and considering.

JH: I'm thinking in particular of the provision which is obviously designed to deal with lobbying or somebody who is trying to get a contract or a job, or maybe to change Government policy on something, outside approaches and so on.

LE: Yes.

JH: And I've seen the documents which are published on the Scottish Government website, and I have to say they strike me as singularly uninformative apart from the fact of who has been met, but it doesn't really tell you anything about what they talk about.

LE: No.

JH: And it's also quite striking that for some Ministers there are a lot of these contacts and for others not so many, so I have to say I would just wonder looking at it how punctilious people are in reporting everything.

LE: Well in fact that's an interesting point, the lobbying legislation was recently updated, as you know, to include me as well, so I publish all my diaries now, I think I'm the only Permanent Secretary in the UK that is required to do that. I don't have a

problem with it at all, but I think the fact that the legislation was quite broad, and indeed whether or not we have kept pace with that, in terms of some of the Code, is an interesting point. I think the other thing is when we look at this procedure we would want to make sure that we were absolutely in step in every way with any revisions to the Ministerial Code. So we would want to keep these in pace, I think that has been the case so far but any changes to either of those I would want to make sure the read across, particularly in such difficult territory, such testing territory, that we really look at that again. But I will come back to you on that, cos I think...

JH: That would be very useful, I'm hoping though to produce this report quite quickly if I can because I don't want to run up against, I'm conscious that there is an election coming up so..

LE: Indeed.

JH: ... I don't want to get anywhere close to that.

LE: No, quite right. I understand that.

JH: Yeah, well, thank you very much for your time. I don't know if there is anything else you want to add to what you've said? And it would be very helpful if you can give us some, the various things that you've mentioned.

LE: Yes. I'll check in with [REDACTED] just to make sure that we're both in agreement of what would be most useful to you, and get somebody in my office to do that quickly given your timescale. The only thing I would say is that I was very conscious, and I think I will give you some of the extracts from the Official Record that will give you a bit more flavour of this but I as you would expect, but given the circumstances, I took my role as Deciding Officer incredibly seriously. You know, it still stays with me and it was a career defining decision to do what I did. That in itself was substantial. I was not in any mood or in any place to take any influence from anyone on that. I took that- that lay and lies on my shoulders for good and for ill. The decisions and the process that I undertook. And that will be examined and critiqued, quite rightly, in another forum to this. But I think it's really important that I make that point. That was my role, my responsibility and I undertook it, and nobody was in a position, whoever it might be, to influence me and they didn't. For good or for ill.

JH: Okay, thank you very much.

LE: Okay, thank you. Nice to meet you, albeit virtually. And I will send this information to you quickly.

JH: Thank you very much.

LE: Bye.

JH: Bye.

Minute from David Rogers - Hamilton Secretariat

From: Rogers D (David) (Constitution and Cabinet Director)
<"o=tse/ou=tseexchsite01/cn=recipients/cn=u114545">
To: [REDACTED]@gov.scot>, [REDACTED]
<[REDACTED]@gov.scot>, [REDACTED]@gov.scot>,
[REDACTED]@gov.scot" <[REDACTED]@gov.scot>
Cc: [REDACTED]@gov.scot>, Henderson G (Gavin)
<gavin.henderson@gov.scot>, Rennick NS (Neil) <neil.rennick@gov.scot>
Date: Mon, 15 Mar 2021 19:18:12 +0000
Attachments: Minute from David Rogers - Hamilton Secretariat.docx (28.27 kB)

Please find the attached minute about your provision of temporary support to the Hamilton Secretariat.

~

David

~

David Rogers

Director, Constitution and Cabinet | The Scottish Government | 4 N.04, St Andrew's House,
Edinburgh, EH1 3DG | [REDACTED] E: david.rogers@gov.scot

~

~

David Rogers
Director Constitution and
Cabinet
15 March 2021



Copy to: Neil Rennick, Director OCT
Gavin Henderson, Deputy Director, OCT
[REDACTED], Hamilton Secretariat

SCOTTISH MINISTERIAL CODE: FIRST MINISTER'S SELF REFERRAL

Purpose

1. The purpose of this note is to set out the terms under which you will provide support to James Hamilton, the Independent Adviser on the Ministerial Code, in respect of the current referral which he has been commissioned to undertake.

Timing

2. Your role in providing short-term and temporary support to Mr Hamilton will take on 16 March at 10am until submission of his report to the Scottish Government, at which point you will return to your current roles.

Background

3. The Deputy First Minister set out the terms of the remit for the referral by way of an answer to a Parliamentary Question on 3 August. The full text of this is attached in the annex. The First Minister has delegated to the Deputy First Minister responsibility for overseeing this referral.

The secretariat role

4. Mr Hamilton has requested that the resources assigned to the Secretariat are increased to help facilitate the early publication of his report. He has explained that the intention would be to ensure that the process of publication can proceed as smoothly as possible. You will be temporarily be part of the Secretariat on this basis.
5. Mr Hamilton's role is independent of the Scottish Government. For your work in the Secretariat you will report to him and not to Ministers or your normal line managers. The Head of the Secretariat is [REDACTED], and you should look to her and Mr Hamilton for direction.

[APG]

6. In supporting Mr Hamilton it is of the highest importance that you take all necessary steps to protect his independence and the confidentiality of his inquiry. In particular:
- any documents that you see or prepare as part of the work, such as Mr Hamilton's draft report, should not be shared with anyone outside Mr Hamilton's secretariat without authorisation from him or [REDACTED];
 - you should not discuss any aspect of the evidence that he has taken, or the conclusions he may be drawing with officials outside the secretariat, with Scottish Government ministers, or with anyone else;
 - you should take direction from [REDACTED] on document handling. You should not retain any secretariat documentation when you cease providing support and no documents should be saved on systems in a manner that is accessible to anyone outside the secretariat.
7. If you require additional advice on any aspect of this minute, please do not hesitate to contact me.

David Rogers
Director, Cabinet and Constitution

15 March 2021

[APG]

ANNEX

**SCOTTISH PARLIAMENT
WRITTEN ANSWER**

3 August 2020

Index Heading: Constitution and External Affairs

Clare Adamson (Motherwell and Wishaw) (Scottish National Party): To ask the Scottish Government whether it will provide an update on progress with the First Minister's self-referral under the Scottish Ministerial Code, which was announced on 13 January 2019.

S5W-31054

John Swinney: In my response to S5W-21344 on 31 January 2019, I advised Parliament that the Ministerial Code referral had to be paused to avoid any risk of prejudice to live criminal proceedings. Since the conclusion of those proceedings, the attention of the Government has been focussed on leading Scotland's response global health emergency. In light of the progress that has been made we are now able to re-commence the referral.

The referral will be led by James Hamilton, who is a standing member of the panel of independent advisers. Mr Hamilton is a former Director of Public Prosecutions in Ireland and has been an independent adviser since January 2013.

Mr Hamilton will now proceed with the referral and report as soon as he is able. The report will be published in line with the terms of the remit.

The remit for the referral is as follows:

Ministerial Code Referral: Remit for Independent Adviser

Background

It has been alleged that the First Minister breached the Scottish Ministerial Code in that she failed to feed back the basic facts of meetings and discussions held with Alex Salmond to her private office as required by sections 4.22 and 4.23 of the Code. The meetings and discussions in question took place on:

- 29 March 2018 – Meeting between Ms Sturgeon and Geoff Aberdein, former Chief of Staff to Mr Salmond, Scottish Parliament
- 2 April 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.
- 23 April 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.
- 7 June 2018 - Meeting between Ms Sturgeon and Mr Salmond at SNP Conference, Aberdeen.
- 14 July 2018 - Meeting between Ms Sturgeon and Mr Salmond at Ms Sturgeon's home.

[APG]

- 18 July 2018 - Telephone conversation between Ms Sturgeon and Mr Salmond.

It has been further suggested that, in light of those meetings, the First Minister may have attempted to influence the conduct of the investigation then being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure for Handling of Harassment Complaints involving Current or Former Ministers ("the Procedure").

Scottish Ministerial Code

The key relevant extracts from the Code are:

1.6. Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Ministerial Code and for justifying their actions to Parliament and the public. The First Minister is, however, the ultimate judge of the standards of behaviour expected of a Minister and of the appropriate consequences of a breach of those standards. Although the First Minister will not expect to comment on every matter which could conceivably be brought to his or her attention, Ministers can only remain in office for so long as they retain the First Minister's confidence.

1.7. Where he or she deems it appropriate, the First Minister may refer matters to the independent advisers on the Ministerial Code to provide him or her with advice on which to base his or her judgement about any action required in respect of Ministerial conduct. The findings of the independent advisers will be published.

Contacts with External Individuals and Organisations, including Outside Interest Groups and Lobbyists

4.22 Ministers meet many people and organisations and consider a wide range of views as part of the formulation of Government policy. Meetings on official business should normally be arranged through Private Offices. A private secretary or official should be present for all discussions relating to Government business. Private Offices should arrange for the basic facts of formal meetings between Ministers and outside interest groups to be recorded, setting out the reasons for the meeting, the names of those attending and the interests represented. A monthly list of engagements carried out by all Ministers is published three months in arrears.

4.23 If Ministers meet external organisations or individuals and find themselves discussing official business without an official present – for example at a party conference, social occasion or on holiday – any significant content (such as substantive issues relating to Government decisions or contracts) should be passed back to their Private Offices as soon as possible after the event, who should arrange for the basic facts of such meetings to be recorded in accordance with paragraph 4.22 above.

The First Minister has, accordingly, referred the matter for consideration by one or both Independent Advisers for advice on which to base her judgement about any action required in accordance with the Code.

[APG]

Remit

The remit for the referral is to:

1. Review any relevant documentation relating to the meetings and discussions listed above.
2. Interview any Minister or official of the Scottish Government, including Special Advisers, who may have any knowledge of the facts and content of the meetings and discussions, to assess whether the Ministerial Code is engaged and, if so, whether the terms of the Code have been complied with.
3. Interview any relevant person outwith the Scottish Government, including the former First Minister, Alex Salmond, who may have information relating to the facts and content of the meetings and discussions.
4. Determine if there is any evidence that the First Minister attempted to use information discussed during those meetings and discussions to influence the conduct of the investigation being undertaken by the Permanent Secretary into allegations made against Mr Salmond under the Procedure.
5. Provide the Deputy First Minister with a report setting out the findings and conclusions with regard to:
 - i. whether the Ministerial Code is engaged regarding the meetings and discussions;
 - ii. whether there has been any breach of the Code and the nature of any such breach; and
 - iii. if a breach has occurred, advice on the appropriate remedy or sanction.
6. The Independent Adviser is further invited to consider and offer views on whether the Ministerial Code might need revision to reflect the terms of the Procedure and the strict limitations it places on the involvement of the First Minister in cases which fall to be considered under the Procedure.

Timing

The Independent Adviser is invited to commence the investigation and submit a report as soon as possible.

Publication

The terms of this remit will be published.

The final report will be published. If required, the report will be redacted to remove the risk of any complainer being identified and otherwise to ensure compliance with the terms of the order made by the court in the criminal proceedings.

Payment

Appointment as an Independent Adviser does not attract payment. Reasonable travel and subsistence costs will be paid in line with normal Civil Service rules.

Secretariat

[APG]

The Scottish Government will provide secretariat support as required.

[APG]

RE: James Hamilton's Report

From: Permanent Secretary <permanentsecretary@gov.scot>
To: Henderson G (Gavin) <gavin.henderson@gov.scot>, Permanent Secretary <permanentsecretary@gov.scot>
Cc: Veitch J (Jennifer) <jennifer.veitch@gov.scot>, Rennick NS (Neil) <neil.rennick@gov.scot>, Rogers D (David) (Constitution and Cabinet Director) <david.rogers@gov.scot>, [REDACTED] <[REDACTED]@gov.scot>, Bruce A (Andrew) <andrew.bruce@gov.scot>
Date: Mon, 15 Mar 2021 16:13:32 +0000
Attachments: RE: James Hamilton's Report (272.9 kB)

Gavin,
 \~

Thank you very much – attached is the final response issued just now to Mr Briggs.

Take care
 \~



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Scottish Government
 Riaghaltas na h-Alba
 gov.scot



I'm dyslexic.
 Thank you for
 your consideration.
 Celebrate neurodiversity!



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From: Henderson G (Gavin) <Gavin.Henderson@gov.scot>
Sent: 15 March 2021 14:38
To: Permanent Secretary <PermanentSecretary@gov.scot>
Cc: Veitch J (Jennifer) <Jennifer.Veitch@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>
Subject: RE: James Hamilton's Report
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Proposed text for the letter (which I think is self-explanatory) – cleared with David (and also run by Colin):

\~

"Mr Briggs,

\~

Thank you for your letter on 12 March regarding James Hamilton.

\~

Mr Hamilton is independent and it is a matter from him when his report is complete. However, I can assure you that he is well aware of the pre-election arrangements that come into effect on 25 March.

\~

Once the report has been received by the Scottish Government, it will be published the same day.

\~

Yours sincerely ..."

~
 Happy to discuss if helpful,
 ~
 Gavin
 ~
 ~

From: [REDACTED] [REDACTED]@gov.scot> On Behalf Of Permanent Secretary
Sent: 15 March 2021 10:46
To: Permanent Secretary <PermanentSecretary@gov.scot>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; Veitch J (Jennifer) <Jennifer.Veitch@gov.scot>
Cc: [REDACTED] Humphreys J (Julie) (ETSD) <Julie.Humphreys2@gov.scot>; Director of Communications, Ministerial Support & Workplace <directorcmw@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>; Bruce A (Andrew) <Andrew.Bruce@gov.scot>; [REDACTED] [REDACTED]@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] [REDACTED]@gov.scot>; [REDACTED] [REDACTED]@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>; DG Corporate <dgcorporate@gov.scot>
Subject: RE: James Hamilton's Report

~
 David

Is it possible to please have a draft by 3pm today?

Thanks v much

~



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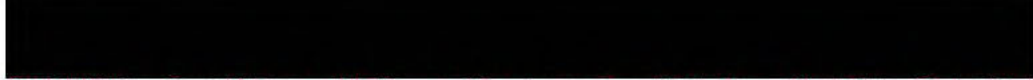
From: [REDACTED] [REDACTED]@gov.scot> On Behalf Of Permanent Secretary
Sent: 12 March 2021 15:00
To: Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; Veitch J (Jennifer) <Jennifer.Veitch@gov.scot>
Cc: [REDACTED] Humphreys J (Julie) (ETSD) <Julie.Humphreys2@gov.scot>; Director of Communications, Ministerial Support & Workplace <directorcmw@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>; Bruce A (Andrew) <Andrew.Bruce@gov.scot>; [REDACTED] [REDACTED]@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] [REDACTED]@gov.scot>; [REDACTED] [REDACTED]@gov.scot>; Permanent Secretary <PermanentSecretary@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>; DG Corporate <dgcorporate@gov.scot>
Subject: RE: James Hamilton's Report

~
 Thanks David and James.
 ~

Copying DG Corporate too (apologies). Perm Sec would like to issue a response by COP Monday please.

Best wishes

~



Scottish Ministers, Special Advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot



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From: Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>
Sent: 12 March 2021 14:58
To: Henderson G (Gavin) <Gavin.Henderson@gov.scot>; Veitch J (Jennifer) <Jennifer.Veitch@gov.scot>
Cc: [REDACTED] Humphreys J (Julie) (ETSD) <Julie.Humphreys2@gov.scot>; Director of Communications, Ministerial Support & Workplace <directorcmw@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>; Bruce A (Andrew) <Andrew.Bruce@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Permanent Secretary <PermanentSecretary@gov.scot>; Hynd JS (James) <James.Hynd@gov.scot>
Subject: RE: James Hamilton's Report

~

Gavin and Jen – we should speak about this. David

~

David Rogers

Director, Constitution and Cabinet | The Scottish Government | 4 N.04, St Andrew's House, Edinburgh, EH1 3DG | [REDACTED] E: david.rogers@gov.scot

~

From: Hynd JS (James) <James.Hynd@gov.scot>
Sent: 12 March 2021 14:56
To: Permanent Secretary <PermanentSecretary@gov.scot>
Cc: [REDACTED] Humphreys J (Julie) (ETSD) <Julie.Humphreys2@gov.scot>; Director of Communications, Ministerial Support & Workplace <directorcmw@gov.scot>; Rennick NS (Neil) <Neil.Rennick@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>; Bruce A (Andrew) <Andrew.Bruce@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>; Rogers D (David) (Constitution and Cabinet Director) <David.Rogers@gov.scot>; [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>
Subject: RE: James Hamilton's Report

~

Hi [REDACTED]

~

I have no role in the finalisation of this report. I am copying to [REDACTED] [REDACTED] and David Rogers who will be able to advise.

~

James

\~
 James Hynd
 Head of Cabinet, Parliament and Governance Division
 Room 4N:03
 St Andrew's House
 Edinburgh
 [REDACTED]

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From: [REDACTED] <[REDACTED]@gov.scot> On Behalf Of Permanent Secretary
Sent: 12 March 2021 14:43
To: Hynd JS (James) <James.Hynd@gov.scot>
Cc: [REDACTED] Permanent Secretary
 <PermanentSecretary@gov.scot>; Humphreys J (Julie) (ETSD) <Julie.Humphreys2@gov.scot>;
 Director of Communications, Ministerial Support & Workplace <directorcmw@gov.scot>;
 Rennick NS (Neil) <Neil.Rennick@gov.scot>; Henderson G (Gavin) <Gavin.Henderson@gov.scot>;
 Bruce A (Andrew) <Andrew.Bruce@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>;
 McAllister C (Colin) <Colin.McAllister@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>
Subject: FW: James Hamilton's Report

\~
 James

To see the attached letter from Miles Briggs MSP to Perm Sec. Would you be best placed to draft a response please? Copying to Colin, Comms and OCT colleagues.

I will confirm receipt now.

Thanks v much

\~

[REDACTED]

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From: Evans L (Leslie) <Leslie.Evans@gov.scot>
Sent: 12 March 2021 14:37
To: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: FW: James Hamilton's Report

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From: [REDACTED] On Behalf Of Briggs M (Miles), MSP
Sent: 12 March 2021 14:36:06 (UTC+00:00) Dublin, Edinburgh, Lisbon, London
To: Evans L (Leslie)
Subject: James Hamilton's Report

~

The Scottish Parliament: Making a positive difference to the lives of the people of
Scotland

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RE: James Hamilton's Report

From: Permanent Secretary <permanentsecretary@gov.scot>
To: Permanent Secretary <permanentsecretary@gov.scot>, miles.briggs.msp@parliament.scot
Date: Mon, 15 Mar 2021 16:12:10 +0000
Attachments: Perm Sec letter to Miles Briggs MSP - 15 March 2021.pdf (147.13 kB)

Mr Briggs,

I hope you're well. Please see attached a response from the Permanent Secretary.

Best wishes

[REDACTED]

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From: [REDACTED] On Behalf Of Permanent Secretary
Sent: 12 March 2021 14:48
To: 'miles.briggs.msp@parliament.scot'
Cc: Permanent Secretary
Subject: RE: James Hamilton's Report

Mr Briggs,

Thank you for your correspondence. I would like to confirm receipt and let you know the Permanent Secretary will respond as soon as possible.

Best wishes

[REDACTED]

Scottish Ministers, Special Advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot



From: Evans L (Leslie) <Leslie.Evans@gov.scot>
Sent: 12 March 2021 14:37
To: Permanent Secretary <PermanentSecretary@gov.scot>
Subject: FW: James Hamilton's Report

From: [REDACTED] On Behalf Of Briggs M (Miles), MSP
Sent: 12 March 2021 14:36:06 (UTC+00:00) Dublin, Edinburgh, Lisbon, London
To: Evans L (Leslie)
Subject: James Hamilton's Report

The Scottish Parliament: Making a positive difference to the lives of the people of Scotland

Pàrlamaid na h-Alba: A' toirt deagh bhuaidh air beatha sluagh na h-Alba

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Permanent Secretary
Leslie Evans



T: [REDACTED]
E: permanentsecretary@gov.scot

Miles Briggs MSP
Sent by email: miles.briggs.msp@parliament.scot

15 March 2021

Dear Mr Briggs,

Thank you for your letter on 12 March regarding James Hamilton QC's report.

As you know Mr Hamilton is independent of Government - it is for him to confirm the completion of his report. However, I can assure you that he is well aware of the pre-election arrangements coming into effect on 25 March.

Once received by the Scottish Government, the report will be published that same day.

Yours sincerely

[REDACTED]

Leslie Evans

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St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



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IN PEOPLE

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Until 2020



From: [REDACTED]
Sent: 15 October 2020 11:17
To: Sheena Hume [REDACTED]
Subject: RE: James Hamilton- Ministerial code referral

Hi Sheena,

Apologies, [REDACTED]. Thanks for spotting that.

Best wishes,

[REDACTED]

From: Sheena Hume
Sent: 15 October 2020 11:13
To: [REDACTED]
Subject: RE: James Hamilton- Ministerial code referral

Hi [REDACTED]

Thanks for your email to Jennifer which I've picked up in her absence. [REDACTED]
[REDACTED]

Kind regards.
Sheena

Sheena Hume | Deputy Advocates' Clerk | Ampersand Advocates | 0131 260 5809 |
ampersandadvocates.com

From: [REDACTED] <[REDACTED]@gov.scot>
Sent: 15 October 2020 10:15
To: Jennifer Dunn <jennifer.dunn@advocates.org.uk>
Subject: RE: James Hamilton- Ministerial code referral

Hi Jennifer,

Many thanks for getting back to us so quickly. I have spoken to Mr Hamilton about the timings and he thinks the timings set out below will work well, as we expect that the bulk of the work will be later into November.

[REDACTED]

Happy to discuss.

Best wishes,

[REDACTED]

From: Jennifer Dunn [REDACTED]
Sent: 14 October 2020 11:09
To: [REDACTED]@gov.scot>
Subject: RE: James Hamilton- Ministerial code referral

Hi [REDACTED]

Thank you for confirming.

I have spoken with Mr Ross who would very much like to assist Mr Hamilton. As I mentioned on the phone he is fully engaged on a case with looming deadlines at the moment so has little to no time available between now and 30th October. Thereafter, beside the last week of November (w/c 23/11) where he is not available, he would have some time to assist. I'm not sure if that is helpful to Mr Hamilton but if you could confirm either way I would be grateful.

If Mr Hamilton would like to give Mr Ross a call he would be happy to speak to him. His mobile number is [REDACTED]

Kind Regards
Jennifer

Jennifer Dunn | Deputy Advocates' Clerk | Ampersand Advocates | [REDACTED]
(forwarding to: [REDACTED] | ampersandadvocates.com)
(my working days are Mondays, Tuesdays and Wednesdays 9am to 5pm)

COVID-19 – Ampersand remains open for business but with some changes to how we work. For the latest updates, please see our website [here](#).

From: [REDACTED]@gov.scot>
Sent: 14 October 2020 10:53
To: Jennifer Dunn [REDACTED]
Subject: RE: James Hamilton- Ministerial code referral

Hi Jennifer,

The line in the PQ referencing costs relates only to Mr Hamilton himself. The Scottish Government is covering the expenses incurred by Mr Hamilton in undertaking his work.

Best wishes,

[REDACTED]

From: Jennifer Dunn [REDACTED]
Sent: 14 October 2020 10:42

To: [REDACTED]@gov.scot>
Subject: RE: James Hamilton- Ministerial code referral

Dear [REDACTED]

Thank you for your email. Can I clarify one point with you before I speak to Douglas. I note from the attachment that '*appointment as an independent advisor does not attract payment*'. Is that referring to Mr Ross not being paid for any legal advice he gives here or to something else? Many thanks.

Kind Regards
Jennifer

Jennifer Dunn | Deputy Advocates' Clerk | Ampersand Advocates | [REDACTED]
(forwarding to: [REDACTED] | ampersandadvocates.com)
(my working days are Mondays, Tuesdays and Wednesdays 9am to 5pm)

COVID-19 – Ampersand remains open for business but with some changes to how we work. For the latest updates, please see our website [here](#).

From: [REDACTED]@gov.scot>
Sent: 14 October 2020 10:12
To: Jennifer Dunn [REDACTED]
Subject: James Hamilton- Ministerial code referral

Dear Jennifer,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Happy to provide more information if that would be helpful.

Best wishes,

[REDACTED]

[REDACTED] | Secretariat to the Independent Advisor under the Ministerial Code
| Please contact me on Skype or on [REDACTED]

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